

April 28, 2011

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, May 5, 2011
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

ITEM 1: Request for appeal hearing – Debbora Day — Veterans’ Services.

ITEM 2: Miscellaneous Discussion.

pc: Debbora Day
Joy Shiffermiller
Gary Chalupa

LAW OFFICES OF
KEATING, O'GARA, NEDVED & PETER, P.C., L.L.O.

CON M. KEATING
ROBERT M. O'GARA
GARY J. NEDVED
PAUL J. PETER
ANNE E. WINNER
JEFFERSON DOWNING
DOUGLAS J. PETERSON
GARY L. YOUNG
TRACY A. FOLLMER
JOEL D. NELSON
JOEL BACON

530 SOUTH 13th STREET, SUITE 100
LINCOLN, NEBRASKA 68508-2795

Telephone (402) 475-8230
Toll Free (888) 234-0621
Fax (402) 475-8328
www.keatinglaw.com

OMAHA OFFICE:
13445 CRYER AVENUE
OMAHA, NEBRASKA 68144
(402) 502-7386

OF COUNSEL:
DONALD R. STADING

February 4, 2011

Mr. Tom Fox
Lancaster Co. Attorney's Office
Justice & Law Enforcement Center
575 S. 10th Street
Lincoln, NE 68508

Re: Debhora A. Day

Dear Tom:

Representation of Debhora Day is being assumed by her new counsel:

Joy Shiffermiller
Shiffermiller Law Office, PC, LLO
1002 G Street
Lincoln, NE 68508
(402)484-7700
joy@joyshiffermiller.com.

Let me know if you have any questions.

Very truly yours,


Anne E. Winner
For the Firm
aew@keatinglaw.com

AEW:eb
cc: Ms. Shiffermiller

CITY - COUNTY PERSONNEL
2011 FEB 8 AM 7 32

LAW OFFICES OF
KEATING, O'GARA, NEDVED & PETER, P.C., L.L.O.

CON M. KEATING
ROBERT M. O'GARA
GARY J. NEDVED
PAUL J. PETER
ANNE E. WINNER
JEFFERSON DOWNING
DOUGLAS J. PETERSON
GARY L. YOUNG
TRACY A. FOLLMER
JOEL D. NELSON
JOEL BACON

530 SOUTH 13th STREET, SUITE 100
LINCOLN, NEBRASKA 68508-2795

Telephone (402) 475-8230
Toll Free (888) 234-0621
Fax (402) 475-8328
www.keatinglaw.com

OMAHA OFFICE:
13445 CRYER AVENUE
OMAHA, NEBRASKA 68144
(402) 502-7386

OF COUNSEL:
DONALD R. STADING

January 20, 2011

VIA HAND DELIVERY

Mark Koller, Secretary, County Personnel Board
Lancaster County Personnel Department
555 South 10th St.
Lincoln, NE 68508

Re: Debbora A. Day

Dear Mr. Koller:

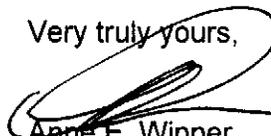
This office represents American Federation of State, County and Municipal Employees Local 2468 (AFSCME) and its member, Debbora Day. Mr. Gary Chalupa, department head of the Lancaster County General Assistance Office, terminated Ms. Day in the enclosed letter of January 5, 2011. This constitutes notice of Ms. Day's intent to appeal pursuant to Article 19 of the bargaining agreement between the County and AFSCME, for reasons including but not limited to the following:

- a. Violation of Article 19, Section 1, failure to dismiss for just cause.
- b. Failure to consider progressive discipline or mitigating factors.
- c. Discipline based upon false assumptions or incorrect facts.

Ms. Day has been terminated for what is essentially a single instance of lapsed judgment in failing to follow procedure and obtain an approved blue leave slip to conform time off to the payroll record for a single pay period. The time in question totals approximately three hours during that pay period, for which Ms. Day had leave time available. She made an unthinking error, cutting a corner too fast. She had no intent whatever to do anything improper. She has no history of discipline in her 15 years as a County employee.

We request the appeal be heard at the March, 2011 Personnel Board meeting. We also request a complete copy of Ms. Day's personnel file and a current copy of the Personnel Board rules of procedure.

Very truly yours,


Anne E. Winner
For the Firm
aew@keatinglaw.com

cc: Tom Fox

CITY - COUNTY PERSONNEL
2011 JAN 20 PM 3 51

Lancaster County General Assistance Office

2202 S. 11th St., Room 150, Lincoln, NE 68502
Voice: 402-441-3095 Fax: 402-441-3099

Gary Chalupa, Director

Cynthia Covert, Deputy

January 5, 2011

Debbora A. Day
10705 West Van Dorn
Denton, NE 68339

RE: Disciplinary Action - Termination

Dear Ms. Day:

On or about December 17, 2010, you received a letter proposing to terminate your employment based on violations of Lancaster County Personnel Rules 11.2(h)(4), (14), and (15), and based on violations of the AFSCME Bargaining Agreement, Article 26, Section 6 and Article 23, Section 5. A pre-disciplinary meeting was held on December 29, 2010. During the meeting, you, your attorney, and your Union representatives were provided the opportunity to present information regarding the above violations.

After consideration of all of the facts, and the information you and your representatives provided, I have determined that you have presented no mitigating factors. I have also determined that you have violated Lancaster County Personnel Rules 11.2(h)(4), (14), and (15); and that you have violated Article 23, Section 5, and Article 26, Section 6 of the AFSCME Bargaining Agreement. Therefore, I have decided to terminate your employment with the Lancaster County Veterans Services/General Assistance Office. I have made my decision based on the facts set forth below.

On or about December 9, 2010 Debbora Day filled out a leave request form requesting three hours of vacation leave for December 9, 2010. The leave request was approved by Deputy Director, Cynthia Covert, on December 9, 2010. Ms. Day had also filled out leave request forms on December 13 and 14, 2010, requesting 45 minutes of vacation leave for December 13, 2010, and 30 minutes of vacation leave for December 14, 2010. Both of those requests were also approved by Cynthia Covert on December 13 and 14, 2010, respectively.

On or about December 16, 2010 Ms. Day turned in her time card and her time spread sheet entries for payroll purposes to Tina Walkinshaw, VA/GA payroll clerk. Upon review of Ms. Day's time spread sheet entries, Ms. Walkinshaw noticed that Ms. Day had recorded more vacation time than what was approved on December 13 and 14, 2010, and had also recorded vacation time that had not been approved for December 10 and 15, 2010. Ms. Walkinshaw notified Ms. Day that Ms. Day needed to submit leave request forms for the additional and missing vacation leave time that had been taken between December 9 and 15, 2010.

On or about December 16, 2010, after receiving the notification from Ms. Walkinshaw, Ms. Day approached Ms. Walkinshaw and asked her for Ms. Day's existing leave request forms for the past week (December 9 through 15, 2010). Ms. Walkinshaw handed Ms. Day the leave request forms, and

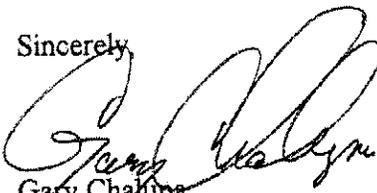
Ms. Day indicated that she was going to add her "shortage time" to one of the existing approved leave request forms so that she did not have to go to Cynthia Covert to have Ms. Covert approve a leave request form for the extra vacation leave. Ms. Day then added the following dates and time amounts to the approved leave request form dated December 9, 2010:

12/10	1 hr. 3 min.
12/13	35 min.
12/14	20 min.
12/15	42 min.

At no time prior to or following Ms. Day's adding of the above vacation leave times did Ms. Day seek or gain approval to make changes to the approved leave slip or to gain approval for the added/extra leave amounts.

The totality of your actions justifies and requires the termination of your employment with the Lancaster County Veterans Services/General Assistance Office effective immediately.

Sincerely,



Gary Chalupa

Director, Veterans Services and General Assistance

cc: Mark Koller
Thomas Fox