

VIRGINIA:

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY

JON MARQUE BLUBAUGH,

Petitioner,

v.

LAW NO. 6882

R.R. DONNELLEY & SONS COMPANY

and

VIRGINIA EMPLOYMENT COMMISSION,

Respondents.

FINAL ORDER

This cause came before the Court on February 12, 1985, upon a petition for judicial review of Decision No. 19940-C of the Virginia Employment Commission (Commission) dated August 20, 1983, and was argued by counsel for all parties.

Having considered the record of proceedings before the Commission, the pleadings and the arguments of counsel, the Court is of the opinion and hereby adjudges that there is sufficient evidence in the record to support the Commission's findings and decision that Petitioner was discharged for misconduct in connection with his work as provided in § 60.1-58(b) of the Code of Virginia. The Court further incorporates herein the principles of law relating to the scope of judicial review, the definition of "misconduct" and the burden of proof standards as set forth in this Court's letter opinion

dated July 18, 1984 in Linda J. Johnson v. Virginia Employment Commission and S. E. Nichols, Inc. Law No. 6935 (copy attached and incorporated herein).

In this case, the evidence is quite clear that although the employee had for a number of months been able to perform his work satisfactorily, something occurred and his work became unsatisfactory, including numerous incidences of tardiness and reprimands from his employer for his work not meeting the quality standards required by the employer. The burden of showing mitigation, therefore, would be upon the employee. The Commission found that the employee failed to carry the burden of proof on this issue and the Court is bound by the Commission's determination. It is therefore

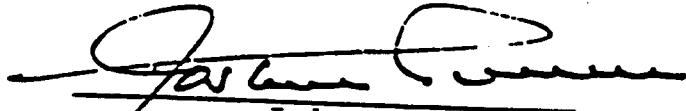
ADJUDGED, ORDERED AND DECREED that the decision of the Commission is affirmed and the Petition for Judicial Review is dismissed with prejudice.

The Petitioner, by counsel, objects to the foregoing action and decision of the Court.

Pursuant to Rule 1:13 of the Supreme Court of Virginia, the Court hereby dispenses with the necessity of endorsement or notice of presentation of this Order.

The Clerk shall send certified copies of this Final Order to all counsel of record and shall have this case stricken from the docket.

ENTER: FEB 25 1985



Judge

A TRUE COPY.

ATTESTE:


Deputy Clerk