

November 14, 2024

TO: City of Lincoln Personnel Board Members

Special Time &
Location

SUBJECT: Personnel Board Meeting
Thursday, November 21, 2024
12:00pm., 303 Conference Room
County-City Building, Third Floor

AGENDA

- ITEM 1: Approval of Minutes from the November 8, 2024 meeting.
- ITEM 2: Public Comment
- ITEM 3: Miscellaneous Discussion
- ITEM 4: Request for appeal hearing – PAGE – Transportation and Utilities – Cedric Esquivel - Termination.
- PC: City Directors
City Clerk
Union Presidents
Cedric Esquivel
Courtney Faller
Marna Munn

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Lincoln Commission on Human Rights, at 402 441-7624, or the City Ombudsman at 402-441-7511 as soon as possible before the scheduled meeting date in order to make your request.

KEATING | O'GARA

Gary J. Nedved

Joel D. Nelson

Milissa D. Johnson-Wiles

OF COUNSEL:

Anne E. Winner

Paul J. Peter

Joel Bacon

Brenna M. Grasz

Doug Peterson

Jefferson Downing

Thomas P. McCarty

Courtney R. Faller

EMERITUS:

Gary L. Young

Tara L. Gardner-Williams

Con M. Keating

March 27, 2024

VIA EMAIL

Barb McIntyre
Human Resources Director
555 So. 10th
Lincoln, Nebraska 68508

RE: Cedric Esquivel

Dear Barb:

This firm represents Cedric Esquivel, a Utility Equipment Operator I in the Lincoln Transportation and Utilities Department, and the Public Association of Government Employees, Inc., his union ("PAGE"). On February 29, 2024, the Department Head terminated his employment, effective March 16, 2024.

Pursuant to Article 8, Section 6, of the collective bargaining agreement between PAGE and the City, Mr. Esquivel herein appeals the disciplinary action and requests a hearing before the City Personnel Board. The termination was without just cause, as required by the PAGE contract. We would request a hearing in the June 2024 meeting of the Personnel Board, or in a special sitting of the Board.

At this time, on behalf of Mr. Esquivel and PAGE, we are requesting the following information:

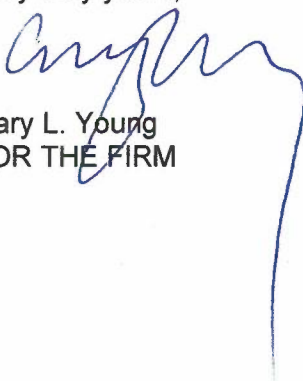
1. access to all witnesses to the incidents alleged by the employee for questioning;
2. Information regarding any accidents involving City involving City-owned vehicles during the last 4 years. In particular, we request a description of each accident, whether discipline was issued to the employee, what discipline was issued (if any), and whether the employee had prior accidents with City-vehicles at the

time of the incident, and what those prior accidents involved. Ideally, the information would include the letter of allegations, and the reprimand or disciplinary letter containing the outcome. We do not object to redaction of the name of the employee if the City would prefer sending us redacted information, so long as the redaction does not render the information unusable for the purposes of evaluating the comparability of discipline in the present matter to discipline in prior cases;

3. We would also request the same information as described in paragraph 2 from the City regarding all employees who have been fired by the City in the last 4 years for any reason, and the behavior for which they were fired. The letters containing the notice of the allegations and the disposition letter would be the most obvious form of this that is usually in employee files. Again, we do not object to redaction of the name of the employee if the City would prefer sending us redacted information, so long as the redaction does not render the information unusable for the purposes of evaluating the comparability of discipline in the present matter to discipline in prior cases; and,
4. We would request all information that was actually considered by the Department Head or any other person involved in the decision to investigate or discipline Cedric Esquivel, including any communications between the parties involved in the decision-making process from the incident to the present, including Human Resources and LTU.
5. We would request all reports, investigative materials, photos, video, or other materials generated, collected or reviewed during the investigation and decision-making process of this disciplinary matter.

Thank you for your attention to this appeal and these requests.

Very truly yours,


Gary L. Young
FOR THE FIRM

Attest:


Cedric Esquivel



555 South 10th Street, Suite 208
Lincoln, NE 68508

Office 402-441-7548
ltu.lincoln.ne.gov

ADMINISTRATION

February 29, 2024

Mr. Cedric Esquivel
5210 Colby St.
Lincoln, NE 68504

Dear Cedric,

A pre-disciplinary meeting was held on February 20, 2024. Present at the meeting were you, Gary Young, Donna Garden, Jeremy Lackey, and Jon Thober.

On February 13, 2024, you drove a City semi-trailer (77401) across the scale at the Bluff Road Landfill and scraped/side-swiped the trailer against the concrete guard/pole. This resulted in the following damage to the trailer: a bent wheel rim, a popped tire, a broken hydraulic line and a bent portion of the trailer's steel frame.

This incident is a violation of:

- LTU Policies and Procedures Chapter 9 – Operation of Equipment and Vehicles:
 - o (9.1) It is expected that you will operate all vehicles and equipment in a responsible and safe manner and in accordance with all traffic rules and regulations, safety policies, and operation specific acceptable practices.
- LTU Policies and Procedures Chapter 11 – Disciplinary Action:
 - o (11.3.6) An employee may be subject to disciplinary action when causing damage to vehicles, equipment or buildings.
- Lincoln Municipal Code 2.76.445 Cause for Disciplinary Action:
 - o (f) Has been guilty of insubordination or any conduct unbecoming to an officer or employee of the city, either on or off duty.
 - o (h) Damage to or negligence in the care and handling of city property.
 - o (j) Commission of acts or omissions unbecoming an incumbent of the position held, which render a reprimand, suspension, demotion, or dismissal necessary or desirable for the efficient conduct of the business of the City and for the best interest of the municipal government.

After consideration of this incident, evidence presented at the pre-disciplinary meeting, and progressive discipline, your employment with the City of Lincoln will be terminated, effective March 16, 2024. Pursuant Article 8, Section 6 of the Public Association of Government Employees (PAGE) labor contract, you are hereby suspended without pay for ten working days.

By the end of the day, March 16, 2024, please return your City identification and other property in your possession to Karla Welding. If you have personal items in the work area, please let Karla know and she will either return those to you when you return your City property, or mail them to your home address.

City medical, dental and vision benefits expire at the end of the month of your separation date. Please contact the Benefits Department at HRBenefits@lincoln.ne.gov or 402-441-7597 option 2 with questions about these or any other current benefits.

Sincerely,



Elizabeth Elliott, Director
Lincoln Transportation and Utilities

CC: HR file
Marna Munn, Assistant City Attorney
Donna Garden