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Alesar Campbell

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**BEFORE THE CIVIL SERVICE COMMISSION
OF THE STATE OF TENNESSEE**

IN THE MATTER OF:

Alesar Campbell

DOCKET NO: 26.15-093045J

NOTICE OF DEFAULT AND ORDER

This Fifth-Step Civil Service administrative proceeding was heard on September 13, 2007, in Greeneville, Tennessee, before Joyce Carter-Ball, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Tennessee Civil Service Commission. Marilyn Tucker, Staff Attorney for the Department of Finance and Administration (“Department”) represented the State. Grievant Alesar Campbell was not present, nor was counsel present on her behalf.

At the beginning of the hearing, counsel for the State made an oral motion pursuant to T.C.A. §4-5-309 for an order finding the Grievant, Alesar Campbell, to be in default, and for an order allowing this case to proceed without the participation of Grievant because of her failure to appear at this hearing after receiving due notice.

In support of its motion, the State introduced evidence that reasonable attempts were made to notify Grievant of her hearing on September 13, 2007. On September 7, 2007, an Order setting this matter was mailed to Grievant at her last address. The September 7, 2007 letter was not returned. Based on this evidence, the State’s motion was GRANTED and the Grievant was found in DEFAULT.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THAT THE GRIEVANT HAS BEEN HELD IN DEFAULT FOR FAILURE TO APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. GRIEVANT HAS 15 DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, 312 8TH AVENUE NORTH, 8TH FLOOR, WILLIAM R. SNODGRASS TOWER, NASHVILLE, TENNESSEE 37243. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE GRIEVANT'S FAILURE TO ATTEND. IF GRIEVANT DOES NOT REQUEST THE DEFAULT BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-0513.

ORDER

The subject of this hearing was an appeal of the termination of Grievant's employment with the Department of Finance and Administration, Division of Mental Retardation, for the good of the service. After consideration of the record and arguments, it is ORDERED that the termination of Alesar Campbell be UPHeld. This determination is based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On July 29, 2006, Grievant timely appealed the fourth level hearing and requested a hearing at Level V.

2. The fifth level hearing was held on September 13, 2007. The Grievant did not appear.

3. Martha Fillers testified on behalf of the State. Ms. Fillers is the Director of Nursing at Greene Valley Developmental Center. Ms. Fillers was also the Director of Nursing at Greene Valley Developmental Center from 2004 through 2006.

4. Grievant functioned as a Licensed Practical Nurse at Greene Valley Developmental Center. She was responsible for giving medications, assessing individuals and responding to emergencies.

5. Ms. Fillers recorded Grievant's impairment on the day of the occurrence. The Nursing Board sent one of their representatives, who questioned Ms. Fillers, along with some other nursing staff.

6. Ms. Fillers testified that Grievant's license was suspended until Grievant is evaluated and has signed a contract with the Tennessee Professional Assistance Program ("TNPAP"), effective September 6, 2006.

7. Ms. Fillers testified that Grievant's license expired March 31, 2007. This is a current up-to-date status of Grievant's license. Because of her expired license, Grievant cannot be re-employed at Greene Valley Developmental Center.

8. Ms. Fillers further testified that there is a registry of excluded individuals who cannot work for health care providers who provide Medicare, Medicaid or federal funding, and, that Greene Valley Developmental Center has Medicaid and Medicare patients.

9. Human Resources for Greene Valley Developmental Center has to look at that registry, as well as the abuse registry, before hiring or re-employing individuals.

10. Ms. Fillers testified that Grievant does not hold a current nursing license.

11. The State's attorney made a motion to dismiss this matter on the evidence that Grievant can not be re-employed at Greene Valley Developmental Center because Grievant is suspended from her practice and is no longer even licensed to practice in the State.

12. Grievant is now on a registry of unemployable license holders in the State of Tennessee because of Board action.

CONCLUSIONS OF LAW

1. Upon review of the record and arguments, it is concluded that the Department met its burden of proof, by a preponderance of the evidence, that the Grievant be terminated for the good of the service.

2. Department of Personnel Rule 1200-10-.02 Disciplinary Action Policy and Rule 1120-10-.05 Causes for Disciplinary Action :

(1) Causes relating to performance of duties.

3. Department of Personnel Rule 1120-10-.06 Examples of Disciplinary Offenses:

(1) For the good of the service as outlined in T.C.A. 8-30-326 (b).

4. It is **CONCLUDED** that the Department properly terminated Grievant for the good of the service based on causes relating to performance of duties.

5. It is **ORDERED** that the termination of Alesar Campbell be **UPHELD**.

This Initial Order entered and effective this 14th day of November, 2007.

Joyce Carter-Ball
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 14th day of November, 2007.



Thomas G. Stovall, Director
Administrative Procedures Division