

**EMERALD COAST UTILITIES AUTHORITY**

EMERALD COAST UTILITIES  
AUTHORITY,

Petitioner,

v.

MICHAEL J. EDLER,

Respondent.

FILED  
2011 APR 20 A 11:38

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

DOAH Case No.: 10-10591

**FINAL ORDER**

Emerald Coast Utilities Authority (hereinafter "ECUA"), terminated Michael J. Edler (hereinafter either "Edler" or "Respondent"), from his employment with ECUA effective at the close of business on December 3, 2010. Edler timely requested a hearing, and the case was forwarded to the Florida Division of Administrative Hearings. A formal hearing was conducted in this cause on February 14, 2011 in Pensacola, Florida, before Diane Cleavinger, Administrative Law Judge with the Florida Division of Administrative Hearings.

On March 21, 2011 Judge Diane Cleavinger submitted her Recommended Order and concluded that Edler was guilty of using offensive language towards a co-worker in violation of Sections F-4(4) and (28) of the ECUA Human Resources Policy Manual and recommended the imposition of such discipline as determined appropriate by ECUA. The Recommended Order further related that it had not been proven that Edler escalated the situation or threatened his co-worker when he suggested that their argument could be settled elsewhere. Judge Cleavinger also concluded that Edler had not been insubordinate in failing to follow his supervisor's direct instructions because he did not hear those instructions due to his hearing impairment.

The parties were subsequently afforded the opportunity to present written exceptions to the Recommended Order prior to the rendering of this Final Order. The time-frame within which to submit those written exceptions has expired, and none have been received.

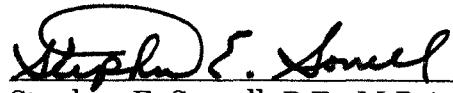
BASED ON THE FOREGOING, it is ORDERED:

1. That the March 21, 2011 Recommended Order submitted to the Emerald Coast Utilities Authority by the Administrative Law Judge be, and is hereby, made a part of and incorporated in this Order.

2. In light of the express finding that Respondent violated Section F-4(4) (Conduct Unbecoming an ECUA Employee) and Section F-4(28) (Threatening or Abusive Language) when he engaged in a verbal argument with an African-American co-worker and derogatorily referred to him as "boy" several times and in consideration of the variables delineated in Section F-1, I find that the termination of Respondent is appropriate and warranted. Accordingly, the termination of the employment of Michael J. Edler is hereby upheld and Affirmed, and he shall go forth without day.

DONE AND ENTERED this 12<sup>th</sup> day of April, 2011.



  
Stephen E. Sorrell, P.E., M.P.A.  
Executive Director  
Emerald Coast Utilities Authority

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO A JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF ECUA, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, WITH THE CIRCUIT COURT OF ESCAMBIA COUNTY. REVIEW

PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE  
FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED  
WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

COPIES FURNISHED:

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