

EMERALD COAST UTILITIES AUTHORITY

EMERALD COAST UTILITIES
AUTHORITY,

Petitioner,

v.

DOAH Case No.: 20-0030

JAMES V. SMITH, SR.,

Respondent.

FINAL ORDER

Emerald Coast Utilities Authority (hereinafter "ECUA") terminated James V. Smith, Sr. (hereinafter either "Smith" or "Respondent") from his employment with ECUA via a letter dated December 12, 2019. Smith timely requested a hearing regarding that termination, and the case was forwarded to the Florida Division of Administrative Hearings. A formal hearing was held on March 2, 2020 in Pensacola, Florida, before Garnett W. Chisenhall, Administrative Law Judge with the Florida Division of Administrative Hearings.

On March 26, 2020, Administrative Law Judge Chisenhall submitted a Recommended Order. The parties were subsequently afforded the opportunity to present written argument prior to the rendering of this Final Order. The timeframe within which to present submissions expired without any being received.

1. In his Recommended Order, the Administrative Law Judge expressly found that the preponderance of the evidence demonstrates that Mr. Smith was out of compliance with Section B-13 A (10) of ECUA's Human Resources Manual and Employee Handbook (hereinafter referred to as the "Manual") (essential job functions) as he cannot tolerate the physical demands associated with his former position as a sanitation equipment operator II,. (Recommended Order at ¶ 24).

BASED ON THE FOREGOING, it is ORDERED:

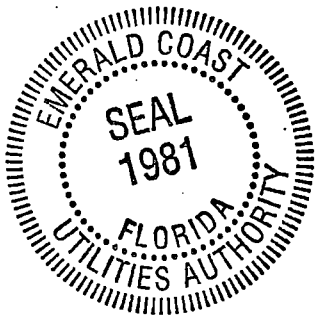
A. The words "within the guidelines of Escambia County Civil Service Rules" are stricken from paragraph 1 of the Administrative Law Judge's Findings of Fact section of the Recommended Order in light of Chapter 2004-422, Laws of Florida, which repealed Civil Service.


B. The Administrative Law Judge's summarized findings in paragraph 1, above, (and the paragraphs of the Recommended Order cited therein) are all supported by competent and substantial evidence and are hereby adopted and made a part of and incorporated into this Order.

C. I further find that the termination of Respondent is appropriate and warranted. Accordingly, the termination of the employment of James V. Smith, Sr. is hereby upheld and Affirmed, and he shall go forth without day.

DONE AND ORDERED this 7th day of April 2020.

[SEAL]




William E. Johnson, Jr., PE/LS
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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