

**U.S. Department of Labor**

Office of the Assistant Secretary for  
Veterans' Employment and Training Service  
900 SW Jackson, Suite 509  
Topeka, KS 66612-1220  
(785) 296-5032 (785) 296-0264 (FAX)



November 8, 2010

Robert J. Wonnell  
707 Minnesota Avenue  
Fourth Floor  
P.O. Box 171300  
Kansas City, Kansas 66117

Re: Kenneth W. Snyder  
[REDACTED]

Dear Mr. Wonnell:

Thanks for taking the time to speak with me on Friday, November 5, 2010 regarding Mr. Snyder's USERRA claim. The following is a synopsis of our conversation regarding the documents and the Board of Public Utilities (BPU) position.

Basically BPU's position is that probationary employees can be terminated without involving the normal process afforded employees with a permanent status. Although, had Mr. Snyder been a permanent employee, his refusal to obey orders, willful or repeated violation of safety rules and careless workmanship would have resulted in the same outcome.

However, USERRA supersedes "at-will" employment actions protecting veterans and reservists from adverse action, absent of just cause. The allegation is that Mr. Snyder's military service was a motivating factor in his termination.

Although BPU did hold the position open to allow Mr. Snyder to attend a deployment, it is my understanding that there was a change in personnel between the person who hired and would have supervised him to the person who became his supervisor and fired Mr. Snyder.

Additionally, based on the evidence provided, there are several things that seem to be questionable and will need further inquiry. First, there were three performance evaluations completed on Mr. Snyder during his 168 days of employment. Mr. Snyder received ratings of "Fair" in three of the six areas that included "Knowledge of Job", "Quality of Work", and "Safety" on his first evaluation. Approximately 30 days later, Mr. Snyder receives a second performance evaluation. In this one, dated April 27, 2010, Mr. Snyder had noted improvements, receiving a rating of "Good" in his "Quality of Work" and "Fair" in the other ratings, to again include areas of job knowledge, quality and safety. However, in his last performance evaluation, Mr. Snyder suddenly receives "Unsatisfactory" ratings in all performance areas.

What is particularly interesting about this final rating is that it is only signed by Mr. Eric Clark and dated during the period that Mr. Snyder was absent attending his two-week Annual Training with his Guard Unit. Moreover, the very issues that were cited as the reason(s) for being terminated are overall rated fair for the majority of his employment.

Second, as cited in your letter (dated October 14, 2010), the position of Traffic Signal Technician is an extremely important position that necessitates a technician to be qualified and demonstrate safety. Additionally, it is my understanding that there is a process by which new hires gain valuable on-the-job training by veteran Traffic Signal Technicians and/or direct-line oversight, prior to being solely responsible for work performed. As such, it is unclear without additional documentation to determine whether the evaluations are true accounts of Mr. Snyder's overall performance warranting his termination. Additionally, the need for comparative analysis to determine whether Mr. Snyder's probationary period was viewed more critically than others in part due to his status as a member of the Air National Guard will be necessary.

Therefore, I am requesting the following information and documentation to be provided:

1. All Employee Performance Evaluations on Traffic Signal Technicians during their probationary period for those who began employment from January 1, 2009 through July 8, 2010.
2. For those employees covered in item #1, and did not pass the probationary period, please provide the reasoning, i.e., letter of termination.

In addition to the above documents, it may be necessary for me to conduct interviews with those who supervised and worked alongside Mr. Snyder.

Your response with the above documents is requested by Friday, December 3, 2010. Although we have not reached a determination in this case, if you are interested in seeking a resolution in lieu of the need for obtaining further information in this matter, we would be pleased to discuss that.

Please don't hesitate to contact me at [REDACTED] or email at [REDACTED] if you have any questions.

Sincerely,



Areon Kelvington  
Director, VET

Cc: Kenneth W. Snyder