

Notice: This decision may be revised before publication in the *District of Columbia Register*. Parties should promptly notify the Office of any formal errors so that this Office can correct them before publishing this decision. This notice is not intended to provide an opportunity for substantive challenge to the decision.

THE DISTRICT OF COLUMBIA  
BEFORE  
THE OFFICE OF EMPLOYEE APPEALS

_____	)	
In the Matter of:	)	
	)	
GERALD L. GRIMES	)	
Employee	)	OEA Matter No. 1601-0232-94
	)	
v.	)	
	)	Date of Issuance: May 31, 2007
D.C. PUBLIC SCHOOLS	)	
Agency	)	
	)	
_____	)	

OPINION AND ORDER  
ON  
PETITION FOR REVIEW

Employee was terminated by the D.C. Public Schools for insubordination, chronic tardiness, inexcusable absence without leave, and testing positive for cocaine. Employee appealed his termination to this Office. The Administrative Judge upheld the dismissal as being based on cause. Employee was employed as a school guard at Douglas Junior High Alternative School, which focused on troubled youths. There were 373 students at Douglas during the

1993-94 school year, and fights frequently broke out. Employee's job was to man the metal detector, make sure the students carried no weapons, and to be available at all times in case trouble broke out.

The Administrative Judge found that the excuses offered by Employee for his absence were not credible. He found:

The testimony and documentary evidence establishes that Employee had a duty to obey the agency's lawful orders to be present at his guard duty station, to account for his presence at all times during his work hours, to call in and to submit medical documentation to explain his absences, and to avoid conduct such as illegal drug use that would impact his ability to do his job.

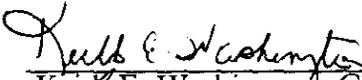
The Administrative Judge held that Employee "purposefully and defiantly failed" to carry out his duties.

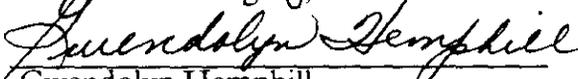
In his Petition for Review, Employee contests the Administrative Judge's findings on the chain of custody with respect to the drug test administered by Agency. We do not resolve this question in this Opinion because even assuming, *arguendo*, that the Initial Decision findings on this issue are not supported by substantial evidence, it is abundantly plain that the remaining charges of insubordination and AWOL are supported by the evidence of record and are sufficiently grave under the facts of this case to warrant removal. Employee does not contest in the Petition for Review the Administrative Judge's findings on these critical charges. Accordingly, the Board denies Employee's Petition for Review and upholds Employee's removal from service.

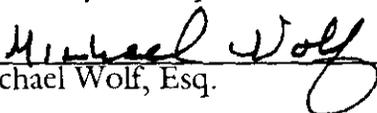
ORDER

Accordingly, it is hereby ORDERED that Employee's Petition for Review is DENIED.

FOR THE BOARD:

  
\_\_\_\_\_  
Keith E. Washington, Chair

  
\_\_\_\_\_  
Gwendolyn Hemphill

  
\_\_\_\_\_  
Michael Wolf, Esq.

The initial decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance of this Order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.