

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED]) **No. 22 AA 03**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated April 24, 2022, the Office of Public Safety Administration (“OPSA”) gave Applicant written notice of its decision to remove him from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reasons for the disqualification decision (“Notice”).

On May 23, 2022, Applicant appealed this decision to the Police Board by filing a written request specifying why the OPSA erred in the factual determinations underlying the disqualification decision and bringing to the Police Board’s attention additional facts directly related to the reasons for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”). The OPSA did not file a response to the Appeal.

Appeals Officer Kyle Cooper has reviewed the Notice and Appeal.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Cooper, as a result of a review of the above material, submits the following findings of fact, conclusions of law and recommendation to the Police Board.

Filings by the Parties

On May 23, 2022, Applicant filed a timely appeal as provided by Section 2-84-035(b) of

the Municipal Code of Chicago. Notably, the OPSA did not file a response.

According to the Notice, which expressly relies on and references a background investigation, Applicant was removed from the Eligibility List solely because he admitted to the following during his polygraph examination: (1) taking a pair of work gloves that were left in his former employer's lost and found; (2) taking a pair of work pants from his former employer without permission or paying for them; and (3) taking a single bag of de-icing salt from his former employer.¹ (Notice at pgs. 3-7.)

In his Appeal, Applicant takes full and complete responsibility for his actions, admits that his actions were wrong and states that he reached out to his former supervisor to apologize for his behavior. (Appeal at pg. 1.) Applicant asks to be given a second chance to achieve his "dream to be a Chicago police officer and to work side by side with the women and men who serve and protect the City Of Chicago." (*Id.*)

Findings of Relevant Facts²

Biographical Information

Applicant is a twenty-five-year-old male. (Notice at pg. 2.) At the time of the incidents that led to his removal from the Eligibility List, Applicant was twenty and twenty-one.

Work History

For at least parts of 2017 and 2018, Applicant was employed by Professional Security Consultants ("PSC"). As noted in Footnote 1, Professional Security Consultants provides

¹ According to the Notice, all of these incidents took place in either 2017 or 2018 while Applicant was employed by an entity named Professional Security Consultants, which according to its website (<https://www.pscsite.com/>) provides security officers to malls across America.

² Applicant did not attach any documents from his file to his Appeal. Accordingly, the findings in this section are based solely on the information contained in the Notice and Applicant's one-page Appeal.

security officers to malls across America. Applicant appears to have worked at a mall when he worked for PSC in 2017 and 2018.

Polygraph Examination and Subsequent Follow-up Regarding Exam Answers

On March 21, 2019, Applicant, as part of the application process, sat for a polygraph exam. (Notice at pg. 3.) During this exam, Applicant made the following admissions:

1. That while working for PSC in 2017, he “took a pair of work gloves which were in the lost and found”;
2. That while working for PSC in 2018, he took a pair of work pants that were stored in a closet without permission and without paying for them; and
3. That while working for PSC in 2018, he took a single bag of de-icing salt from the mall he was working at for his own personal use.

(Id.)

The Police Department subsequently followed-up with Applicant via email regarding each of the above admissions. *(Id.)*

Regarding the first admission (work gloves), the Department asked Applicant about PSC’s lost and found policy. *(Id.)* Applicant responded by saying that after six months of an item being in PSC’s lost and found, it is given to the property manager. *(Id.)*

Regarding the second admission (work pants), the Department asked Applicant: (1) why did he not purchase the pants; and (2) whether PSC had a policy regarding taking a pair of work pants without paying for them. *(Id.)* Applicant did not really respond to the first question. *(Id.)* Instead, he explained that he needed to “wait months before [he] received pants” and that PSC takes money out of employee’s paychecks for uniforms when they are hired, but that he never told anyone at PSC that he took the pants. *(Id.)* With respect to the second question, Applicant stated that PSC had a policy that required employees to notify certain company personnel

whenever they took items out of the “uniform closet” where the pants were stored. (*Id.*)

Finally, regarding the third admission (the de-icing salt bag), the Department asked Applicant whether he had permission to take the salt bag. (*Id.*) Applicant responded by saying that he was not given express permission to take the bag and that while there was no policy regarding the issue, he believed he was supposed to inform someone before taking the salt bag. (*Id.*)

Applicant’s Contrition

In his Appeal, Applicant takes full and complete ownership of and profusely apologizes for his actions. (Appeal at pg. 1.) He also provides additional details regarding the three relevant admissions. (*Id.*)

Regarding the first admission (work gloves), Applicant states that he spoke with his former supervisor, [R.M.], to confess and apologize for his actions. Mr. [R.M.] purportedly told Applicant that the work gloves were going to be thrown out. (*Id.*)

Regarding the second admission (work pants), Applicant states that Mr. [R.M.] told him that the cost of the pants was covered by PSC’s uniform insurance policy. (*Id.*)

Regarding the third admission (the de-icing salt bag), Applicant states that Mr. [R.M.] told him that it was OK for mall personnel to take de-icing salt bags during certain times of year because the bags were often thrown out “to make room for spring and summer decorations for the mall.” (*Id.*)

Applicant’s Criminal Record

There is nothing in the record to suggest that Applicant has a criminal record.

Disqualification Decision and Appeal

Due to his answers during the polygraph exam, on April 24, 2022, the OPSA sent

Applicant written notice of its decision to remove him from the Eligibility List. (*See Notice*) In the Notice, the OPSA cites two reasons for Applicant's removal from the Eligibility List: (1) his prior employment history; and (2) other criminal conduct. (*See Notice.*) This appeal followed.

Conclusions of Law

Standard of Review

Pursuant to Section 2-84-035(c) of the Municipal Code of Chicago, an applicant challenging the decision to remove him or her from the Eligibility List has the burden of showing, by a preponderance of the evidence, that the decision was erroneous.

Disqualification Based on Prior Employment History

Special Order 18-01 (the "Special Order") contains the "Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer." (*See Special Order 18-01.*) Under section IV(D) of the Special Order, the Chicago Police Department may disqualify an applicant from consideration for a police officer position based on the applicant's prior work history. (*Id.* at pgs. 7-8.) Specifically, section IV(D)(3) of the Special Order provides, in relevant part, that "... an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment." (*Id.*)

In support of its decision to remove Applicant from the Eligibility List based on his prior employment history, the OPSA references the three admissions made by the Applicant during his polygraph exam, namely that he admitted to: (1) taking a pair of work gloves that were left in his former employer's lost and found; (2) taking a pair of work pants from his former employer without permission or paying for them; and (3) taking a single bag of de-icing salt from his

previous employer. (Notice at pg. 3.) The OPSA further states that “if [Applicant] would have been employed by the City of Chicago as a Chicago Police Officer, the conduct of theft at the workplace would have been a violation of Chicago’s Police Departments Rules and Regulations Article I, B-4.” (*Id.*)

Article I, B-4 of the Department’s Rules and Regulations provides that:

“The public demands that the integrity of its law enforcement officers be above reproach, and the dishonesty of a single officer may impair public confidence and cast suspicion and disrespect upon the entire Department. Succumbing to even minor temptation can be the genesis which will ultimately destroy an individual’s effectiveness and contribute to the corruption of countless others. A member must scrupulously avoid any conduct which might compromise the integrity of himself, his fellow members or the Department.”

(Chicago's Police Departments Rules and Regulations Article I, B-4.)

The record, however, reveals that while he may not have given proper notice before taking the work gloves or the de-icing salt bag, Applicant did not steal these items. The work gloves, which were in the lost and found, were going to be thrown out, and Applicant’s supervisor subsequently told Applicant that mall personnel were indeed allowed to take the salt bags home for personal use. (Appeal at pg. 1.) Thus, the record suggests that Applicant’s actions with respect to these two incidents would not have violated Article I, B-4 of the Department’s Rules and Regulations. Accordingly, the record suggests that Applicant has proven, by the preponderance of the evidence, that the decision to remove him from the Eligibility List based on these two incidents was erroneous.

While Applicant admits that he should not have taken the work pants without first informing the appropriate personnel or paying for them (Appeal at pg. 1), the totality of the circumstances, Applicant’s sincere contrition, honesty and acceptance of responsibility all

suggest that the decision to remove Applicant from the Eligibility List based on this incident was also erroneous.

Finally, it is worth noting that the OPSA did not file a response to Applicant's Appeal.

Disqualification Based on Criminal Conduct

In support of its decision to remove Applicant from the Eligibility List, the OPSA also cites Section IV(B)(7)(b)(1) of the Special Order and again states that "if [Applicant] would have been employed by the City of Chicago as a Chicago Police Officer, the conduct of theft at the workplace would have been a violation of Chicago's Police Departments Rules and Regulations Article I, B-4." (Notice at pg. 3.)

Section IV(B)(7)(b)(1) provides that the Department may disqualify an applicant from consideration for a police officer position based on the applicant's criminal conduct. As stated above, however, Applicant did not engage in criminal conduct when he took the work gloves and the de-icing salt. (Appeal at pg. 1.) Thus, Applicant has proven, by the preponderance of the evidence, that the decision to remove him from the Eligibility List for criminal conduct based on these two incidents was erroneous.

Moreover, for the reasons stated above, the decision to remove Applicant from the Eligibility List for the work pants incident was also erroneous. In fact, there is an argument to be made that Applicant should be commended for his honesty, as he truthfully admitted to things that many people would likely deny. Applicant also demonstrated character and integrity by reaching out to his former supervisor to apologize for his behavior. These actions suggest that Applicant is the type of candidate the Department should be seeking.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **reversed**.

Respectfully submitted,

/s/ Kyle A. Cooper

Appeals Officer

Date: July 19, 2022

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendation.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 8 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, Steve Flores, and Andrea L. Zopp) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [name redacted], Applicant No. [redacted], from the list of eligible applicants for the position of probationary police officer is **reversed**, and he is reinstated to the Eligibility List.

This decision and order are entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, Steve Flores, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF JULY, 2022.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director