.IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sonora Jones,	:	
Petitioner	:	
	:	
v.	:	
	:	
State Civil Service Commission	:	
(Department of Labor and Industry),	:	No. 572 C.D. 2013
Respondent	:	Submitted: April 11, 2014

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McGINLEY FILED: July 17, 2014

Sonora Jones (Petitioner) petitions for review from an order of the State Civil Service Commission (Commission) which dismissed her appeal challenging her removal from the position of regular Clerk Typist 3 (CT3) with the Department of Labor and Industry (Department), effective May 29, 2012.

On May 29, 2012, the Department notified Petitioner that she was removed from her regular CT3 position:

> Specifically, in a letter dated March 21, 2012 . . . you were informed that your Extended Sick, Paternal, and Family Care (ESPF) would expire on April 9, 2012. As a result you were given the option to either return to full-time, full-duty work by April 10, 2012, or resign or apply for regular or disability retirement. You returned on April 10, 2012, with a doctor's note releasing you to work with restrictions but were subsequently sent home on approved unpaid leave without benefits (AO) while the Department reviewed your medical restrictions.

> The functions of the Clerk Typist 3 [CT3] position in the Philadelphia WCOA [Workers' Compensation Office of Adjudication] are such that full-time, full-duty work is required. Since your medical release indicated restrictions which would prevent you from full-time, full-duty in this position, the Department could not accommodate your return to work. As such, you were informed via letter from the Department dated May 8, 2012, that you could choose to apply for regular or disability retirement or resign; otherwise you would be separated from employment. Since you did not exercise any of these options by the given deadline of May 15, 2012, we have no choice but to separate you from employment.

Letter from Department to Petitioner, May 29, 2012, at 1; Reproduced Record (R.R.) at RR. 1.

A hearing was conducted on August 13, 2012, before Hearing Officer Therese L. Kenley (Hearing Officer) at which time the following testimony was elicited.

Tameeka Jones (Jones), Clerical Supervisor 2 for the Department, testified that she was familiar with the job duties of the CT3 position which included standing and sitting for more than twenty minutes, carrying files that could weigh fifteen pounds, "give or take", "bending . . . squat[ting] . . . kneel[ing] . . . stoop[ing]", and "us[ing] a three level stepladder to reach the top cabinet if the files are in the top cabinet . . . [i]t is a requirement that you get the file." Hearing Transcript, August 13, 2012, (H.T.) at 15-16, and 18-19; Certified Record (C.R.) at

1.[1] Jones stated that Petitioner called her on March 8, 2012, and stated that "[s]he needed more time off." H.T. at 21. Petitioner "indicated that her doctor wouldn't release her . . . [s]he was feeling pain and she had currently had an accident which left her car totaled [and that] [s]he was in pain and needed more time off." H.T. at 21. Jones stated "I was informed if she contacted me to let the HR [Human Relations] department know . . . [s]o . . . I . . . let the HR people know . . . that she would need a little bit more time off because she was still in pain." H.T. at 23.

On April 10, 2012, Petitioner reported to work with a medical release from her doctor, John K. Eshleman, D.O. (Dr. Eshleman) which stated "[t]hat she was able to return to work with sedentary duties." H.T. at 25. Jones again contacted HR department concerning the medical release, and Jones was advised to send Petitioner home. H.T. at 30. Petitioner again reported to work on May 15, 2012, without a medical release allowing Petitioner to return to the position of CT3 full-time without restrictions. H.T. at 30.

Saundra Parker (Parker), Administrative Officer for the Department, testified that she is "responsible for four Workers' Compensation offices . . . I directly supervise seven supervisors who manage about 65 administrative staff members." H.T. at 51. Parker stated that "[w]e had a significant reduction in staff [in the Philadelphia Office] [and] [a]t one point we probably had close to about 50 staff members . . . [a]s of Friday we're down to 37." H.T. at 51. Parker stated that the staff reduction would preclude the Department from assisting Petitioner with her physical limitations, "I mean, if Sonora [Petitioner] would have come in with those particular limitations, we could not offer her any assistance to help her do her

[1] This Court will only refer to the R.R. when reviewing the H.T.

job." H.T. at 58. Parker concluded that Petitioner was terminated from her CT3 position because "[m]y understanding is that she could not return to full-time, full-duty and that we had no work that we could offer with the limitations that her doctor had listed on her doctor's note." H.T. at 61.

Amanda Reigel (Reigel), human resource analyst, testified that the Sick, Parental and Family Care Absence Policy (SPF) is the "Commonwealth's program under the Family Leave Act." H.T. at 86. "The SPF Absence Policy for the Commonwealth provides employees with more of a benefit than the federal law requires, where we provide employees who are eligible and have entitlement for up to six months of leave with or without pay with benefits and the right to return to their current job . . . ." H.T. at 86-87. Reigel continued that "[o]nce that entitlement [SPF] is exhausted, if the employee is not able to return to work and it's a continuance absence, we place them on a second entitlement of extended SPF or ESPF . . . [i]t's an additional six months that is without pay and without benefits." H.T. at 87. "[O]nce an employee begins the ESPF, they have limited return rights . . . [t]hey may only return to a vacant position that the agency intends to fill." H.T. at 87-88. "If an employee is unable to return to work after what could be a full year, after both entitlements have exhausted, they must return to work full-time, full[-]duty or they have the option to resign or retire." H.T. at 88. Reigel opined that "[i]f she would have returned to work full-time, full[-]duty on the 10th when her leave entitlement exhausted, she would not have been terminated." H.T. at 99.

Kara Sunday (Sunday), human resource analyst three, testified that "[o]nce I reviewed the release, I spoke with the local management, asked them if they [sic] could comply with the restrictions that were set forth in the document."

H.T. at 117. "I also reviewed the position description and essential functions . . . [a]nd when all was said and done, I advised them that if she could not return to work full duty that they [sic] could not allow her to come back to work." H.T. at 117. Sunday stated that if Petitioner was unable to return to work full-time, full-duty with a medical release, "the other options were to resign or retire, regular retirement or disability retirement." H.T. at 119. Sunday stated that Petitioner failed to select any of the options. H.T. at 120.

Dr. Eshleman, who specializes in family practice and occupational medicine, first saw Petitioner on May 17, 2011, after her work-related injury of March 4, 2011. H.T. at 177.[2] Dr. Eshleman examined Petitioner on April 9, 2012, to evaluate whether Petitioner was able to return to full-duty work with the Department. Dr. Eshleman opined:

> I felt at the time, April 9th, 2012, when I wrote her return to full[-]duty limited work, that she could return to a sedentary position as long as she limited lifting, carrying, pushing and pulling with either upper extremity, did no more than five pounds on an occasional basis with no bending, stooping, kneeling, crouching or ladder climbing. Her injuries involved her neck and lower back at that time. (emphasis added).
>
> I felt that these restrictions fell within the guidelines that she had given me as to her regular pre-injury light duty, sedentary type of work . . . . When I received the work description from the employer, there was an indication there that she would be required to do several of these maneuvers, such as bending, stooping, kneeling, crouching, on a regular basis. But there was no indication of what she would be doing in terms of her job

[2] Dr. Eshleman testified by phone at the hearing.

> as she described it to me that would involve these activities. (emphasis added).

H.T. at 181-82. Dr. Eshleman concluded that "I felt that these restrictions would fall within those guidelines and that she could return to her full duty position as a Clerk Typist 3." H.T. at 182-83.

Lastly, Petitioner testified that she was able to perform the duties of her job description for the position of CT3. H.T. at 264. Petitioner stated that "I didn't have anything that was 20 to 25 pounds to lift" and that the average weight "would be less than five pounds, one and a half to three pounds . . . [f]ive pounds would be compared to a bag of sugar." H.T. 266-67. Petitioner continued that bending and squatting "varied . . . out of a day . . . [i]t depended on my file . . . I rarely had files at the bottom of my cabinet, so I really didn't have to stoop at all." H.T. at 270-71. Petitioner unequivocally stated that she "was able to return to full-time, full[-]duty . . . I was able to do my job." H.T. at 272. Petitioner testified that "I did contact SERS [State Employee Retirement System] and read the letter [to apply for disability retirement or resign] to them [and] [t]hey said they were going to mail me an application." H.T. at 280. On May 15, 2012, Petitioner received a document from Claude Trice, retirement counselor for SERS, addressing her inquiry about retirement options as instructed by the Department. H.T. at 283. Petitioner believed that she complied with the Department's May 8, 2012, letter that "any application for disability retirement must be made prior to separation from employment." H.T. at 297.

The Commission made the following pertinent findings of fact:

1. By letter dated May 29, 2012, appellant [Petitioner] was informed of her removal, effective May 29, 2012, from her regular status Clerk Typist 3 position . . . .

2. The May 29 letter stated:

> This action . . . is a result of your failure to return to full-duty work by April 10, 2012.
>
> Specifically, in a letter dated March 21, 2012 . . . you were given the option to either return to full-time, full-duty work by April 10, 2012, or to resign or apply for regular or disability retirement. You returned on April 10, 2012, with a doctor's note releasing you to work with restrictions but were subsequently sent home on approved unpaid leave without benefits (AO) while the Department reviewed your medical restrictions . . . .
>
> . . . Since your medical release indicated restrictions which would prevent you from performing full-time, full-duty in this position, the Department could not accommodate your return to work . . . . Since you did not exercise any of these options by the given deadline of May 15, 2012, we have no choice but to separate you from employment.

. . . .

4. Appellant [Petitioner] has been employed by the appointing authority [Department] since March 23, 1992 . . . . Throughout the herein relevant period, appellant [Petitioner] was employed in the Clerk Typist 3 classification . . . .

. . . .

6. Due to a March 2011 work-related injury, appellant [Petitioner] was placed on approve leave under the . . . "SPF" . . . policy . . . . Appellant's [Petitioner's] SPF leave ran from April 12, 2011 through October 17, 2011 . . . .

7. After the SPF leave expired, appellant [Petitioner] was granted . . . . "ESPF" . . . appellant's [Petitioner's] ESPF leave was for a period from October 18, 2011 to April 9, 2012 . . . .

8. Employee return rights from ESPF are limited; employees granted ESPF can only return to vacant positions that the appointing authority intends to fill . . . . Employees returning from ESPF must either return to full-time, full duty or resign or retire . . . . (emphasis added).

9. By letter dated March 21, 2012, appellant [Petitioner] was advised that her ESPF entitlement would expire on April 9, 2012; the letter stated:

it is necessary to choose one of the following options . . .[r]eturn to full-time, full-duty work on April 10, 2012, with a medical release . . . if you are unable to work . . . you may choose to apply for regular or disability retirement or resign your position . . . .

10. On April 10, 2012, appellant [Petitioner] . . . arrived at her worksite . . . [and] provided a doctor's note . . . . Appellant [Petitioner] was advised that the note was not sufficient and was directed to leave the office . . . .

11. The doctor's note . . . included a directive that appellant [Petitioner] be returned to a "sedentary position" . . . . (emphasis added).

12. By letter dated May 8, 2012, the appointing authority advised appellant [Petitioner] as follows:

> . . . Since your medical release indicates restrictions which would prevent you from performing full-time, full-duty in this position, we cannot accommodate your return to work.
>
> You may choose to apply for regular or disability retirement or resign your position by submitting a letter of resignation . . . .

> 13. Appellant [Petitioner] again returned to her worksite on May 15, 2012 . . . . Appellant [Petitioner] was again sent away . . . .

Commission's Adjudication, March 8, 2013, Findings of Fact (F.F.) Nos. 1-2, 4, and 6-13 at 2-7. The Commission concluded that "Appellant [Petitioner], having failed to return to full[-]duty on April 10, 2012 following the expiration of her leave, just cause for removal existed as of that date." Commission's Adjudication, Discussion at 23. "The May 8 letter gave appellant [Petitioner] an opportunity to either retire or resign . . . Appellant [Petitioner], having failed to effectively act on the available options, her separation from employment was not improper." Commission's Adjudication, Discussion at 23.

On appeal[3], Petitioner essentially argues that the Department lacked just cause to remove her from employment because its decision was based on the Department's faulty premise that Petitioner was unable to return to her pre-injury job as a CT3.[4]

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[3] This Court's review of an order of the Commission is limited to considering whether substantial evidence supports necessary factual findings, whether an error of law was committed, or whether a violation of constitutional rights occurred. 2 Pa. C.S. § 704.

[4] Petitioner raises the following five issues before this Court:

> I. Whether the Commission erred and/or abused its discretion first in failing to address and decide the legal import of Petitioner's act of having reported to her assigned work location on April 10, 2012 prepared to perform her CT3 position and with a medical release from her health care provider in fulfillment of Appointing Authority's plainly stated March 21, 2012 return to work option, which facts were not disputed, then failed to address and decide the legal effect and ramifications of Appointing Authority's act of having totally foreclosed Petitioner from resuming the CT3 position, and then adjudicated this matter under the erroneous premise that it was Petitioner's malfeasance, when in

(Footnote continued on next page…)

(continued…)

fact it was Appointing Authority's malfeasance, that led to and resulted in Appointing Authority's removal action?

II. Whether the Commission's holding that sufficient just cause was established by Appointing Authority for its removal action in its case-in-chief to withstand Petitioner's Rule 105.15(c)(8) motion to dismiss, based on the undisputed fact of Petitioner's compliance with Appointing Authority's March 21, 2012 return to work option in the first instance, and its ultimately [sic] decision sustaining the removal action is supported by substantial evidence of record and whether the Commission's adjudication was compliant with the well-established principles governing the adjudication of civil service removal actions?

III. Whether the Commission's apparent adoption of Appointing Authority's post hoc contention, that because it determined that restrictions in the medical release presented by Petitioner on April 10, 2012 rendered her incapable of performing the CT3 position and, therefore, Petitioner failed to return to work on April 10, 2012, is supported by substantial evidence on the face of that contention and absent the failure of the Commission to address and decide the legal effect of Petitioner [sic] apparent compliance on April 10, 2012 in the first instance and then further failed to address and decide this issue within the context of Appointing Authority's act of having totally foreclosed Petitioner from resuming her CT3 position on April 10, 2012?

IV. Whether by Petitioner's compliance with Appointing Authority's March 21, 2012 return to work option on April 10, 2012 in the first instance rendered its May 8, 2012 letter extending Petitioner the option to retire or resign, based on its determination that Petitioner failed to return to work on April 10, 2012, null and void, and the Commission's adjudication, which excluded Petitioner's reasonable compliance with the May 8, 2012 retirement option as being irrelevant to its determination of just cause, is sustainable, factually and legally, under any premise?

V. Whether the Commission's adjudication, given its failure to address and decide crucial issues that were necessary for a proper consideration and resolution of the ultimate issue of just cause, its adoption of Appointing Authority's flawed contention and basis for its removal of Petitioner and its reliance on clearly inadmissible testimony of lay witnesses regarding Petitioner's

(Footnote continued on next page…)

Section 807 of the Civil Service Act (Act)[5], 71 P.S. § 741.807, provides that "[n]o employe in the classified service shall be removed except for just cause." (emphasis added). In Wei v. State Civil Service Commission, 961 A.2d 254, 258-59 (Pa. Cmwlth. 2008), this Court stated that to constitute "just cause":

> [It] 'must be merited-related and the criteria must touch upon [the employee's] competency and ability in some rational and logical manner.' 'What constitutes ample just cause for removal must necessarily be largely a matter of discretion on the part of the head of the department. To be sufficient, however, the cause should be personal to the employ[ee] and such as to render him [her] unfit for the position he [she] occupies . . . .' Woods v. State Civil Service Commission (New Castle Youth Development Center), . . . 912 A.2d 803, 809 ([Pa.] 2006). (emphasis added).

(continued…)

> ability to perform the CT3 position, lacks sufficient substantial evidence to support its order sustaining Appointing Authority's May 29, 2012 removal action?

See Brief for Petitioner, Questions Involved at 3-4.

Pa. R.A.P. 2116(a) (Statement of Questions Involved) provides that "[t]he statement of questions involved must state concisely the issues to be resolved, expressed in the terms and circumstances of the case but without unnecessary detail . . . [e]ach question shall be followed by an answer stating simply whether the court or government unit agreed, disagreed, did not answer, or did not address the question . . . ." (emphasis added). Because Petitioner failed to comply with R.A.P 2116(a), this Court will address Petitioner's issues as they were concisely stated by the Commission when it rendered its decision. See Commission's Adjudication, Discussion at 20-21.

[5] Act of August 5, 1941, P.L. 752, as amended.

I. Whether Petitioner Fulfilled The Department's Requirements That She Return To Full-Time, Full-Duty For The Position Of CT3.

Initially, Petitioner contends that she complied with the Department's March 21, 2012, directive when she reported to her assigned work location on April 10, 2012, prepared to resume her work duties as a CT3 and accompanied with a medical release. Therefore, Petitioner asserts that the Department lacked sufficient just cause for her removal.

The Department counters that Petitioner failed to "return to work in the position of a CT3 with a medical release indicating that she was able to return to full[-]time, full[-]duty work." Brief for Respondent at 11.

There is no dispute that Petitioner reported to her assigned worksite on April 10, 2012, as directed by the Department's March 21, 2012, letter. However, Dr. Eshleman testified on cross-examination that his April 9, 2012, medical release was prepared on the information provided by Petitioner.[6] H.T. at 185. Dr. Eshleman acknowledged that he did not review Petitioner's job description when he wrote the medical release. H.T. at 185. In fact, Dr. Eshleman stated in his medical release that Petitioner "may return to a sedentary position at this time provided she limits her lifting, carrying, pushing and pulling with either upper extremity to no more than 5 pounds on an occasional basis with no bending, stooping, kneeling, crouching or ladder climbing." (emphasis added). John K.

[6] The Commission noted that "it is apparent that any statement made by the doctor was based upon appellant's [Petitioner's] assessment of her duties rather than the appointing authority [and that] [a]ppellant's [Petitioner's] inability to perform the duties of her job description was acknowledged during the doctor's testimony at hearing." Commission's Adjudication, Discussion at 22 n.6.

Eshleman, D.O. Medical Release (Dr. Eshleman Medical Release), April 9, 2012, at 1; R.R. at 16. Dr. Eshleman continued that Petitioner "must be allowed to change position frequently and should not sit or stand for longer than 20 minutes at a time and not walk for more than 10 minutes at a time." (emphasis added). Dr. Eshleman Medical Release at 1; R.R. at 16.

Also, Jones testified for the Department that she was familiar with the required duties of a CT3 and that Petitioner's medical release precluded her from returning to full-time, full-duty work as a CT3. Specifically, Jones stated that Petitioner would be required to sit and stand for more than twenty minutes, lift files weighing approximately fifteen pounds as well as bending, stooping, kneeling, crouching and ladder climbing. H.T. 15-16 and 18-19.

In Florian v. State Civil Service Commission (Department of Military and Veteran Affairs), 832 A.2d 1171, 1176 (Pa. Cmwlth. 2003), this Court stated that "an employee's failure to return to full unrestricted duty or exercise any other available option to preserve employment gives an employer just cause for removal." (emphasis added). Based on the relevant evidence, the Commission properly concluded that Petitioner was unable to perform the required duties of the CT3 position when she reported for work with medical restrictions.

II. Whether The Department Failed To Properly Assess Petitioner's Ability To Perform The Duties Of A CT3.

Petitioner next contends that, to the contrary, she was able to return to full-duty work because the CT3 position does not require all of the essential tasks the Department's witnesses testified that were necessary to effectively carry out the duties of the position. Essentially, Petitioner asserts that when she reported to

work on April 10, 2012, she was able to perform all the duties of the position which were the same duties she performed prior to her SPF and ESPF leave.

However, the Department's witnesses testified that the current work environment had changed after Petitioner returned from SPF and ESPF leave.

For instance, Parker testified that presently there was a significant reduction in the office staff at the Philadelphia Office. H.T. at 51. Parker testified that prior to Petitioner's SPF and ESPF leave there were about fifty staff members which now was reduced to thirty-seven. H.T. at 51. As a result, the Department did not have sufficient staff members to assist Petitioner with her assigned duties when she reported to work. H.T. at 58.

Further, Sunday testified that she spoke with "local management" and inquired whether it would be able to accommodate Petitioner with her medical restrictions. H.T. at 117. Sunday reviewed the "position description" of a CT3 and upon her review advised management that if Petitioner was unable to return to work full-time and full-duty she was not to return. H.T. at 117. The Commission properly did not disregard Dr. Eshleman's medical opinion that Petitioner could only return in a sedentary position in favor of Petitioner's belief that she could return to full-duty work without medical limitations.

III. Whether Petitioner Complied With The Department's May 8, 2012, Alternative Directive To Apply For Disability Benefits By May 15, 2012.

Petitioner contends that she contacted the State Employees' Retirement System and recounted to them the contents of the Department's May 8, 2012, letter concerning disability retirement. Petitioner asserts that she received an application from Claude Trice, a retirement counselor for SERS. Therefore,

Petitioner asserts that she complied with the Department's request and as a result the Department did not have just cause for removal.

> The May 8, 2012, letter informed Petitioner of the following:
>
> > The functions of the Clerk Typist 3 position . . . are such that full-time, full-duty work is required. Since your medical release indicates restrictions which would prevent you from performing full-time, full-duty in this position, we cannot accommodate your return to work.
> >
> > You may choose to apply for regular or disability retirement or resign your position by submitting a letter of resignation addressed to Karen Barbaretta, Bureau of Human Resources . . . . Please note that any application for disability retirement must be made prior to separation from employment . . . . If you choose not to exercise one of these options by Tuesday, May 15, 2012, we will take action to separate you from employment. (emphasis added and in original).

Letter from Roger Williams, Chief Employee Benefits, Safety and Health Division, May 8, 2012, to Sonora Jones at 1; R.R. at 17.

Petitioner acknowledged that she received the May 8, 2012, letter from the Department. N.T. at 285. Petitioner testified that she did not apply for a disability retirement because she had insufficient time to complete the application.[7] However, Petitioner acknowledged on cross-examination that the same information concerning the requirements that an application for disability retirement must be completed by May 15, 2012, was also contained in the March 21, 2012, letter from the Department. N.T. at 298.

[7] Petitioner testified that she did not receive the May 8, 2012, letter until May 13, 2012. N.T. at 296.

This Court concurs in the Commission's resolution of this issue:

> The Commission will however specifically note that, under the circumstance presented on the record before us, it is our view that whether appellant's [Petitioner's] actions did or did not fulfil the requirements of the May letter is irrelevant to our determination on just cause for removal.
>
> Appellant [Petitioner], having failed to return to full duty on April 10, 2012 following the expiration of her leave, just cause for removal existed as of that date. The May 8 letter did not offer appellant [Petitioner] reinstatement (N.T. pp. 99-100) or offer to extend her leave or in any way imply that she could return to duty (N.T. pp. 59-60), therefore her actions-i.e., reporting for duty on May 15 and contacting the SERS representative-are irrelevant to our determination. The May 8 letter gave appellant [Petitioner] an opportunity to either retire or resign . . . . (emphasis added).

Commission's Adjudication, Discussion at 23.

IV. Whether The Department Failed To Present Substantial Evidence To Establish Just Cause For Petitioner's Removal.

Lastly, Petitioner claims that the record established that she did not engage in any conduct that rendered her unfit to perform the CT3 position. This argument is without merit.

Again this Court concurs with the Commission's resolution of this argument:

> The Commonwealth Court has consistently advised this Commission that an appointing authority has just cause to remove an employee who cannot perform the duties of his/her position. In Florian . . . the Court noted that 'an

> employee's failure to return to full unrestricted duty . . . gives an employer just cause for removal . . . .' The Court has further stated that just cause for removal is present for an employee 'who cannot or will not perform the assigned job as required . . . .' Appellant's [Petitioner's] arguments cannot prevail under the circumstances presented in the current appeal. (emphasis added).

Commission's Adjudication, Discussion at 24.

The Commission's decision to dismiss the appeal of Petitioner from her removal from employment as a CT3 was supported by substantial evidence. "Substantial evidence needed to support a finding of the State Civil Service Commission is the relevant evidence that a reasonable mind, without weighing the evidence or substituting its judgment for that of the Commission, might accept as adequate to support the conclusion reached." Silvia v. Pennhurst Center, Department of Public Welfare, 437 A.2d 535, 536 (Pa. Cmwlth. 1981). "'Judging issues of credibility and resolving evidentiary conflicts are functions of the Commission and not this Court.' Varndell v. Department of Public Welfare, . . . 413 A.2d 11, 14 ([Pa. Cmwlth.] 1980)." Id. at 536. "This Court will not weigh, but only examine the evidence before it and will not substitute its judgment for that of the Commission." Id. at 536.

Accordingly, this Court affirms.

BERNARD L. McGINLEY, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sonora Jones,	:	
Petitioner	:	
	:	
v.	:	
	:	
State Civil Service Commission	:	
(Department of Labor and Industry),	:	No. 572 C.D. 2013
Respondent	:	

O R D E R

AND NOW, this 17th day of July, 2014, the order of the State Civil Service Commission in the above-captioned matter is affirmed.

_____

BERNARD L. McGINLEY, Judge