



DEPARTMENT OF THE ARMY AND THE AIR FORCE
MICHIGAN NATIONAL GUARD JOINT FORCE HEADQUARTERS
3411 NORTH MARTIN LUTHER KING JR. BOULEVARD
LANSING MI 48906-2934

NGMI-COS-AR

28 February 2014

MEMORANDUM FOR MSG JOSEPH L. SMOCK

SUBJECT: Original Decision - Removal

1. On 12 February 2014, LTC Scott Meyers, Surface Maintenance Manager, proposed that you be removed from National Guard technician employment. I have decided that there is cause for your removal.

2. This action will be effective on 15 March 2014. You will continue to be in a suspended with pay status until the termination date.

3. I have considered your reply of 24 February 2014. In your reply you make the following points.

a. The television being carried out of the MATES building was purchased by LTC Golnick using his own personal credit card from Wal-Mart. After careful consideration of your reply and review of the sworn statements in the AR 15-6 investigation, I do not feel the issue was resolved.

b. As for the offense's of wrongfully removing sheets of OSB board, wood, and sheets of luan, you point out that you and your family have been long time customers of local vendors and habitually make wood purchases in support of home improvement projects. You also point out that you have received donated scrap-wood and that it's these wood donations that you used to build items like display cases. After careful consideration of your reply and review of the sworn statements in the AR 15-6 investigation, I do not feel the issues were resolved.

c. As for the offense of installed government purchased tires on your son's truck you stated that in May of 2013 the tires were removed from the existing rims and installed on other rims by Upper Lakes Tire. You also mentioned a fire at MATES in July 2013 that would make it impossible to use the MATES facilities to accomplish a tire change on your son's vehicle. After careful consideration of your reply and review of the sworn statements in the AR 15-6 investigation, I do not feel the issue was resolved.

d. As for the offense of removing heaters from the buildings at Camp Grayling you stated that you purchased the heater in the late 90's and eventually gave the heater to your father-in-law. After careful consideration of your reply and review of the sworn statements in the AR 15-6 investigation, I do not feel the issue was resolved.

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e. As for the offense of wrongfully removing diesel fuel from the MATES building you point out the statements are hearsay and have been rebutted and contradicted by others in the investigation. After careful consideration of your reply and review of the sworn statements in the AR 15-6 investigation, I do not feel the issue was resolved.

f. As for the offense of wrongfully appropriated a chainsaw purchased with government funds to your own use you stated that you own two chain saws of the same brand as the one owned by Mates, but they are of different sizes. After careful consideration of your reply and review of the sworn statements in the AR 15-6 investigation, I do not feel the issue was resolved.

4. I am basing this decision on the evidence presented within the Maneuver and Training Equipment Site (MATES) 15-6. As part of the Standards of Ethical Conduct for Federal Employees, a fundamental principle of ethical service is to protect and conserve Federal property, and not use it for other than authorized activities. Evidence indicates the following occurred.

- a. You wrongfully removed a flat screen television from the MATES building.
- b. You wrongfully removed sheets of OSB board from the MATES building.
- c. You wrongfully removed wood from the MATES building.
- d. You wrongfully removed sheets of luan from the MATES building.
- e. You wrongfully installed government purchased tires on your son's truck.
- f. You wrongfully removed heaters from the buildings at Camp Grayling.
- g. You wrongfully removed equipment parts from the air-to-ground range.
- h. You wrongfully removed diesel fuel from the MATES building.
- i. You wrongfully appropriated a chainsaw purchased with government funds to your own use.


5. The Human Resource Office (HRO) has been consulted on the issuance of this letter. You may seek assistance regarding procedural issues by contacting the Labor Relations Specialist, CW4 Andrew Mosciski at DSN 623-9686, COMM (517) 481-7686, or email at andrew.g.mosciski.mil@mail.mil. This HRO member is not your representative.

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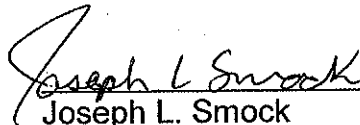
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6. You have the right to appeal this original decision. You may request either an appellate review or an administrative hearing. You may not request both methods of appeal. The appellate review is accomplished by the State Adjutant General without the involvement of a NGB hearing examiner. This appellate review involves a review by the State Adjutant General of all pertinent records including the reply(s) of the technician and any documents submitted with the appeal. In an administrative hearing, a NGB hearing examiner from another State will gather all available and relevant facts through the administrative hearing process. After the hearing process, the NGB hearing examiner will issue a report of findings and recommendations to the State Adjutant General. In either method of appeal the final decision on appeal is issued by the State Adjutant General. You can appeal by sending a written notice to the HRO specifying which method of appeal you request. This request must be postmarked no later than 20 days after the date of this letter, or emailed to the HRO no later than 20 days from the date of this letter. If a request for extension of this appeal period is requested, such request is directed to the State Adjutant General and must be received within the 20 day period, and the reasons for the request must be included. The State Adjutant General will decide if the requests for extension should be granted or not.

7. Your written request for an appellate review or administrative hearing must be received by the HRO (Attention: Labor Relations), 3423 N. Martin Luther King Jr. Blvd., Lansing, MI 48906-2934 no later than 20 March 2014.


GREGORY A. DURKAC
COL, GS, MIARNG
Chief of Staff

I hereby certify hand delivery of this Original Decision Letter. My signing below is not agreement with the content, only acknowledgement that I have received a copy of it.

 28 Feb 14
Joseph L. Smock Date

DOUGLAS FACTORS

(checklist)

In Douglas, the Board made a distinction between the determinations whether any action should be taken and the determination of what is the appropriate penalty. To support taking any action there must be an adequate relationship or "nexus" between the misconduct and the efficiency of the service. To determine what penalty would then be appropriate the agency must consider all relevant factors (Douglas Factors) both mitigating and aggravating:

- (1) The nature and seriousness of the offense, and its relation to the employee's duties, position and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- (2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
- (3) The employee's past disciplinary record;
- (4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- (5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties;
- (6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- (7) Consistency of the penalty with any applicable agency table of penalties;
- (8) The notoriety of the offense or its impact upon the reputation of the agency;
- (9) The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- (10) Potential for the employee's rehabilitation;
- (11) Mitigating circumstances surrounding the offense such as unusual job tension, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- (12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

I hereby certify that I have considered the twelve (12) Douglas factors as indicated above (with my initial next to each factor) for possible mitigation of the penalty.

NAME


Signature of Decision Official

DATE

28 Feb 2014

(ONCE COMPLETED, THIS DOCUMENT SHOULD BE PLACED IN THE EVIDENCE FILE)