

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRED G. SKIVINGTON,
Appellant,
vs.
THE STATE OF NEVADA,
DEPARTMENT OF
TRANSPORTATION,
Respondent.

No. 35614

FILED

MAY 16 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Fred Skivington appeals in proper person from a district court order affirming respondent's termination of his employment. Having reviewed the district court and administrative records, we conclude that the district court did not err by affirming the administrative determination that Skivington was discourteous to fellow employees and that his dismissal was for the public good.

When substantial evidence and sound legal reasoning support an administrative decision made upon lawful procedure, reviewing courts must sustain it.¹ Here, substantial evidence supports the finding that Skivington was discourteous to fellow employees in violation of NAC 284.650(4). NDOT employees testified, and Skivington admitted, that he was rude and discourteous, used profane language and racial slurs, and threatened a fellow employee.

In addition, sound legal reasoning supports the administrative decision. The district court properly rejected Skivington's argument that the Nevada Department of Transportation (NDOT) did not follow proper

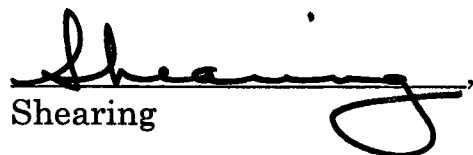
¹See NRS 233B.135(3); SIIS v. Shirley, 109 Nev. 351, 353-54, 849 P.2d 256, 258 (1993).

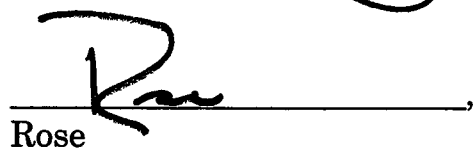
disciplinary procedure. NDOT's August 1998 warning letter satisfied the progressive discipline requirement of NRS 284.383(1). The court also properly rejected Skivington's argument that NDOT was required by the ADA to accommodate his disability. Skivington was terminated for misconduct and not because of any disability.


Finally, the decision was made upon lawful procedure. The district court properly rejected Skivington's argument that the administrative hearing officer engaged in prejudicial misconduct by failing to disclose his prior NDOT employment. The hearing officer disclosed his relationship and no party objected. And the district court properly rejected Skivington's argument that the administrative hearing officer improperly delayed his decision. Skivington was partially responsible for the late decision and the delay was not prejudicial.

Because Skivington did not demonstrate that the administrative decision was invalid, as required by NRS 233B.135(2), we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. Steven R. Kosach, District Judge
Fred G. Skivington
Attorney General/Transportation
Washoe District Court Clerk