No. 1-10-0164

FOURTH DIVISION
March 31, 2011

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

KEVIN WATERS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 08 CH 29450
	)	
THE POLICE BOARD OF THE CITY	)	
OF CHICAGO, and Jody Weis, Superintendent	)	
of Police,	)	The Honorable
	)	James R. Epstein
Defendants-Appellees.	)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Gallagher and Justice Pucinski concurred in the judgment.

ORDER

Held: The Police Board of the City of Chicago properly discharged plaintiff from his position as a police officer.

The Police Board of the City of Chicago (the Board) discharged plaintiff Kevin Waters from his position as a police officer based on several violations of the Rules and Regulations (Rules) of the Chicago Police Department (Department). Plaintiff subsequently filed a petition

for administrative review in the trial court, which affirmed all but one violation and ultimately affirmed the Board's determination that discharge was warranted. On appeal, plaintiff contends the evidence did not support the Board's determination that he violated the Rules or that discharge was warranted. We affirm.

Plaintiff was charged with violating five Rules based on allegations that at about 2 a.m. on July 30, 2006, he was at Bourbon Street Bar in Merrionette Park, when he directed racial slurs toward James Burton and displayed a knife or threatened to slit Burton's throat. It was further alleged that plaintiff failed to immediately submit a written report to the Department regarding the incident and ultimately made a false report to the Internal Affairs Division of the Department by denying the aforementioned allegations and claiming to be the victim in the incident. Based on the allegations, plaintiff was charged with violating Rule 1, "[v]iolation of any law or ordinance," because his conduct toward Burton constituted aggravated assault (720 ILCS 5/12-2(a)(1) (West 2006)). Plaintiff was also charged with engaging in the following prohibited acts: Rule 2, "[a]ny action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department"; Rule 8, "[d]isrespect to or maltreatment of any person, while on or off duty"; Rule 14, "[m]aking a false report, written or oral"; and Rule 20, "[f]ailure to submit immediately a written report that any member, including self, is under investigation by any law enforcement agency other than the Chicago Police Department." A two-day hearing was held before Hearing Officer Jacqueline Walker on March 26, 2008, and April 25, 2008.

At the hearing, Burton testified that at about 2 a.m. on July 30, 2006, he was working as

an attendant in the men's bathroom at Bourbon Street Bar when the offender tried to open a stall door that had been locked because it was out of order. Burton told the offender it was locked but he again tried to open it. After the offender left the bathroom, he returned and Burton explained once more that the stall was locked. Burton denied attempting to hit the offender or threatening him with an object. Burton's testimony varied regarding how many people were in the bathroom at that time but he testified that he later learned one of them was the bartender. The offender, who was holding a beer bottle, stared at Burton, tried opening the door yet again and became angry. Referring to the offender's pocket knife, Burton testified that the offender "flipped it up and pulled it out on me," and said "I'll fucking cut you, nigger." Burton did not however, hear the offender call him a "melon John"[1] or say that he would "slit" Burton's throat. Burton grabbed his tip basket, ran out the door and told a security guard what happened. Two security guards then entered the bathroom. When the Merrionette Park police arrived, Burton spoke to them and said that a large hunting knife had been used. He decided not to press charges after learning that the offender was a police officer. When asked to identify the offender at the hearing, Burton identified plaintiff's attorney but then explained he could not recognize the offender because the incident occurred so long ago.

Johnathan Malacina, a bartender at Bourbon Street Bar, testified that when he finished his shift at 1 a.m., he stayed at the bar. At some point, he went in the bathroom and saw a man, who

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[1]This likely refers to an attempted phonetic translation of racial slur based on the Italian word, "melanzane", which literally means "eggplant" but is used in disparaging fashion against African Americans.

Malacina apparently identified as plaintiff at the hearing, arguing with the attendant about a person who was alleged to be in the stall. Malacina did not recall whether he saw a beer bottle in plaintiff's hand but observed that he was irate toward the attendant. Plaintiff called the attendant a "melon John," pulled out a heavy duty hunting knife and threatened to cut the attendant, saying "I'm going to slice your throat, N word." Malacina recalled seeing "the silver part flipped from the side of it." After the attendant ran out of the bathroom, Malacina explained to plaintiff that no one was in the stall but he proceeded to kick the door. In order to calm him down, Malacina told plaintiff he would "look into it." As soon as Malacina left the bathroom, the security guards entered. During this encounter, the attendant did not attempt to hit plaintiff with a stool or anything else and no one was in the bathroom other than plaintiff, the attendant and Malacina.

Anthony Marino testified that he was working as a security guard at Bourbon Street Bar at about 2 a.m. on the day in question, when "Jason Malacina" told him someone in the bathroom had a knife and Marino saw the bathroom attendant running away with his tip jar. Marino did not hear any racial slurs or threats coming from the bathroom at that time. With two security guards behind him, Marino entered the bathroom and saw two men. One man was holding a closed knife and the other man was by the urinal. After learning that the two men were not together, Marino asked the man by the urinal to leave and told the man with the knife to put it on the counter. Both men complied and the remaining man explained that an altercation had occurred between the attendant and himself. He also said he was a Chicago police officer and showed Marino identification. At some point, Sherly O'Neal, Marino's supervisor, entered and the man was brought to a shipping area where the police spoke to him. Marino was unable to

identify the offender at the hearing, explaining that the incident happened a long time ago and he had not seen the offender since then. Marino's testimony was somewhat corroborated by O'Neal, who testified that when she entered the bathroom, she saw that security officers had a man against the door, whom she apparently identified at the hearing as plaintiff. O'Neal testified that she recovered a closed knife from the counter, called the Merrionette Park police and gave them the knife when they arrived.

Officers Justin Rimovsky, Johnathan Longini, John Dewan and Joseph Petrauskas, who all testified at the hearing, were dispatched to Bourbon Street Bar regarding an aggravated assault incident. Their testimony generally showed that when Officer Rimovsky and Officer Longini arrived, employees had detained the offender, a Chicago police officer. Officer Longini testified he did not speak to the offender but after observing him for 10 to15 minutes, believed him to be intoxicated because he was unable to stand straight and wobbled back and forth. Officer Dewan handcuffed plaintiff and placed him in the back of Officer Rimovsky's squad car. When Officer Petrauskas arrived, plaintiff told him that he was attacked by six men in the bathroom and defended himself. Officer Petrauskas then spoke to a security guard, Burton and a bartender, apparently referring to Malacina, but they did not confirm that six men were involved. As a result, Officer Petrauskas returned to plaintiff and told him to tell the truth. Plaintiff said he became upset when looking for his friend and one of the bathroom stalls was locked. Because plaintiff believed that the attendant was possibly involved in hurting his friend, plaintiff tried to get inside the stall. Officer Petrauskas testified that plaintiff never alleged a Hispanic man in the bathroom was trying to attack him. Plaintiff did however, tell Officer Petrauskas that when the

attendant picked up a stool, plaintiff took out his knife to defend himself. After Burton and Malacina denied that a stool was used, Officer Petrauskas told plaintiff to "quit BS'ing" and tell the truth. Plaintiff finally said that he was scared for his friend and "screwed up." Plaintiff admitted that no stool was involved and apologized. Officer Petrauskas testified that during his conversations with plaintiff, he appeared to have been drinking. Ultimately, Burton told Officer Petrauskas that he knew plaintiff was a police officer and did not want to file a complaint. As a result, the case was closed at that time and Officer Rimovsky took plaintiff to the police station to have someone pick him up. At the police station, Officer Rimovsky detected a slight odor of alcohol coming from plaintiff's breath but could not determine whether he was intoxicated. When plaintiff's father came to collect him, Officer Petrauskas told him that no charges would be filed. At some point, the Merrionette Park police informed the Department of the incident. Officer Rimovsky, Officer Dewan and Officer Petrauskas apparently identified plaintiff at the hearing as the offender, but Officer Longini was unable to do so.

Maria Martin, an agent for the Internal Affairs Division of the Department, testified that in August 2006, she was assigned to investigate plaintiff's case. During plaintiff's interview, he told Martin that he went to Bourbon Street Bar with a friend but did not drink. Plaintiff went to the bathroom where the attendant and a Hispanic man, whom plaintiff described in detail, were present. When plaintiff asked the men if his friend was in the bathroom, the Hispanic man responded, "who cares," and started waving his arms around. Plaintiff alleged that the Hispanic man then said, "you want some bullshit," and began swinging his arm and clenching his fists. When the attendant tried to hit plaintiff with a stool, plaintiff felt threatened. The Hispanic man

took a step toward plaintiff, who then took out a small folded pocket knife but did not open it or point it toward anyone. Plaintiff told Martin he had the knife because he used it to cut boxes and speaker wires but he denied that he used the word "nigger" or threatened to "cut the guy's fucking throat." Plaintiff also said he was asked to sit in one of the squad cars and later went to the police station, where he explained the incident to several people. In addition, plaintiff told Martin he had not submitted a written report to the Department but on the following day relayed the incident to Sergeant Ken Boudreau, his commanding officer. Plaintiff explained he did not inform the Department that he was involved in an investigation because he believed no investigation was pending and he was the victim. Martin further testified that one of the officers said plaintiff was placed in custody and released to his father.

Sergeant Boudreau testified that the day after the incident, plaintiff told him he had been involved in a disturbance at Bourbon Street Bar and had contact with the Merrionette Park police. Plaintiff did not say he was the alleged offender in the incident; rather, he said that two people followed him into a bathroom and tried to assault him, apparently with a stool. Plaintiff denied being intoxicated at the time and said he took out a knife to defend himself. Sergeant Boudreau testified that he knew plaintiff was not capable of fighting because he was on limited duty status. In addition, plaintiff told Sergeant Boudreau that the police were called, but he was released. Because plaintiff said he was not under investigation, Sergeant Boudreau told him he did not need to complete a report. Sergeant Boudreau further testified that plaintiff's performance as an officer was exemplary.

Plaintiff testified that he began working for the Department in December 1995 and was

subsequently placed on limited duty status due to injuries he sustained in a car accident. Plaintiff was working in his basement with his father at about 10 p.m. or 10:30 p.m. on July 29, 2006, when Officer Rob Casali came over. Plaintiff and Officer Casali went to Bourbon Street Bar but plaintiff did not drink because he was the designated driver. At some point, Officer Casali said he was going to the bathroom but did not return. Plaintiff became concerned for Officer Casali's safety because several fights occurred near the bathroom earlier that evening. When plaintiff's attempt to call Officer Casali's cell phone was unsuccessful, plaintiff went in the bathroom but did not find Officer Casali. After two or three minutes, plaintiff left the bathroom but returned when he still could not find him. Plaintiff saw that the door to a bathroom stall was shut and asked the attendant if someone was inside. The attendant did not answer. The one other person who had been in the bathroom then left, leaving only plaintiff and the attendant. Plaintiff knocked on the stall door but no one answered. Plaintiff again asked the attendant if anyone was in the stall but still received no answer. When plaintiff jiggled the door handles to the stall, he discovered it was locked.

As plaintiff was knocking and asking whether anyone was in the stall, a Hispanic man entered the bathroom and began talking with the attendant. Plaintiff told the attendant that he was looking for his friend and wanted to know if anyone was in the stall. When the Hispanic man said, "who cares," plaintiff asked him if he worked for the bar. Plaintiff said he did not want any problems, that he was a Chicago police officer and that he only wanted to find his friend and go home. The Hispanic man began waving his hands and clenching his fists and said, "you want some bullshit." He then took a step toward plaintiff and turned to look at the

attendant, who reached for his stool. Plaintiff remembered that in his pocket was the pocket knife he had previously been using to open boxes and cut wire in his basement. Fearing for his life, he took out the knife but did not open the blade. Plaintiff denied using racial terms against the attendant or threatening to cut him. As plaintiff pulled out the knife, the Hispanic man and attendant looked at him, laughed and left the bathroom.

Plaintiff testified that he used the facilities and put the knife on the sink because he "knew" security would be coming in. Based on the demeanor of his attackers, he believed they were going to tell security "some story." When security guards entered, Malacina was not with them. Security took the knife from the sink and escorted plaintiff to the back of the bar where the Merrionette Park police were present. Plaintiff explained to Officer Petrauskas what happened and described his attackers but plaintiff never saw the police talk to the Hispanic man. Plaintiff denied telling Officer Petrauskas that his explanation had not been true, that he "fucked up," that he was sorry or that there were six men in the bathroom. The police handcuffed plaintiff and took him to the police station but he was not charged with a crime and his case was closed. No one told him he could not drive his car and his father took him back to the bar to retrieve it. At work the next day, plaintiff explained the incident to Sergeant Boudreau, who told him he did not need to fill out a report. Plaintiff's testimony was somewhat corroborated by his father John Waters, who testified that when he picked plaintiff up from the police station, he did not seem intoxicated and Officer Petrauskas told him to get his car before it was towed. Plaintiff's father testified that at some point, he took plaintiff back to the bar to collect his car.

A knife was admitted into evidence at trial; however, the witnesses' testimony was

inconsistent regarding whether this was the knife used in the incident. Two awards issued to plaintiff for his police service were also admitted into evidence. It further appears that plaintiff's complimentary history and disciplinary history were admitted into evidence and showed that plaintiff had one commendation, seven honorable mentions and no prior disciplinary actions.

On July 17, 2008, the Board, having reviewed the record of proceedings and conferred with Hearing Officer Walker, rendered a decision finding plaintiff was guilty of the allegations and Rule violations as charged. The Board ordered that plaintiff be discharged from his position as a police officer. Plaintiff filed a timely petition for administrative review in the trial court. Following a hearing on March 18, 2009, the court entered a written order reversing the Board's finding that plaintiff was guilty of violating Rule 20 based on his alleged failure to report that he was under investigation, and affirming the Board's finding of guilt as to the remaining violations. Because the Board's decision to discharge plaintiff had been based on his violation of five Rules, the court also remanded the cause for the Board to decide what punishment was appropriate based on his violation of four Rules. Without a hearing, the Board entered a new decision the next day, ordering that plaintiff be discharged. Plaintiff moved to reinstate the case in the trial court and to remand to the Board for additional proceedings because the court's order contemplated that he was entitled to an opportunity to be heard. Following a hearing on August 10, 2009, the court entered a written order remanding the case to the Board for a hearing in aggravation and mitigation.

At a hearing on October 29, 2009, Michael Kill, a former Chicago police detective, testified that on November 17, 2007, he hired plaintiff to work as a restaurant greeter for his

company, Embassy Security. Plaintiff told Kill that plaintiff had an administrative problem, that he was suspended and that his weapon had been taken away. Kill testified that he did not know the specific allegations or charges made against plaintiff but he was an excellent employee, conducted himself like a gentleman and no complaints had been made against him. Brian Carroll, the vice president of Embassy Security, similarly testified that plaintiff was an excellent employee and had a good reputation among his colleagues. Carroll testified that since plaintiff became employed at Embassy Security, they had become friends and he wanted plaintiff to return to his position as a police officer. Finally, plaintiff testified that two or three months prior to the hearing, he received by letter a meritorious commendation from the Department. Plaintiff acknowledged that the letter did not specify the basis for the award and stated that there was a four-year lag in recognizing employees' work. Plaintiff testified that he had always wanted to be a police officer, that he was good at it and he wanted a second chance.

On November 19, 2009, the Board, having reviewed the record, the court's remand order, the Board's prior findings, plaintiff's four violations and his complimentary and disciplinary history, entered a written order stating the Board remained convinced that discharge was warranted. The Board found that plaintiff's conduct when he "displayed a knife and/or threatened to slit a bathroom attendant's throat," directed racial slurs at the attendant, and subsequently provided a false official report to the Internal Affairs Division regarding the incident, rendered plaintiff's continued employment detrimental to the efficiency and discipline of the service and something which sound public opinion and the law recognize as good cause for him to no longer occupy his office. The Board filed a motion for entry of a final order in the

trial court on December 16, 2009. Following a hearing on January 6, 2010, the court entered a final and appealable order finding that the Board complied with the court's remand order and affirming the Board's decision to discharge plaintiff.

On appeal, plaintiff first asserts the evidence did not support the Board's findings that he displayed a knife and threatened to slit Burton's throat, that he directed racial slurs toward Burton and that he subsequently provided a false report regarding the incident. Plaintiff does not dispute that if the aforementioned findings are supported by the record, the Board properly found he violated Rules 1, 2, 8 and 14. Administrative Review Law (735 ILCS 5/3-101 *et seq*. (West 2008)), applies to decisions of the Board. 65 ILCS 5/10-1-45 (West 2008). In administrative cases, we review the decision of the agency, rather than the decision of the trial court, and our review is limited to the administrative record. *Kramarski v. Board of Trustees of Village of Orland Park Police Pension Fund*, 402 Ill. App. 3d 1040, 1046 (2010). Review of an administrative agency's discharge decision requires a two-step analysis. *Siwek v. Police Board of the City of Chicago*, 374 Ill. App. 3d 735, 737 (2007). First, the court must determine whether the agency's finding of guilt is against the manifest weight of the evidence and second, the court must determine whether the agency's factual findings supported its determination that cause for discharge existed. *Ehlers v. Jackson County Sheriff's Merit Comm'n*, 183 Ill. 2d 83, 89 (1998). In addition, an agency's factual findings are *prima facie* true and correct. *Krocka v. Police Board of the City of Chicago*, 327 Ill. App. 3d 36, 46 (2001) (citing 735 ILCS 5/3-110 (West 1998)). Furthermore, the reviewing court is not permitted to reweigh the evidence, decide the credibility of the witnesses or substitute the agency's judgment with its own. *McCleary v. Board of Fire &*

Police Comm'n of the City of Woodstock, 251 Ill. App. 3d 988, 992 (1993).

Here, the Board's findings were not against the manifest weight of the evidence. Burton testified that plaintiff pulled a knife on him and said, "I'll fucking cut you, nigger." Burton's testimony was corroborated by Malacina's testimony that plaintiff pulled out a knife, told Burton "I'm going to slice your throat, N word," and called Burton a "melon John." Although plaintiff argues that the difference between the two witnesses' testimony as to the precise racial slur used renders their testimony incredible, we find this discrepancy to be insignificant. Both men testified they heard plaintiff use some racial slur, that he pulled out a knife and that he threatened to cut or slice Burton. Accordingly, their testimony is substantially consistent. That the two witnesses did not provide identical verbatim accounts of the incident nearly 20 months after it occurred is to be expected. Similarly, in light of the significant passage of time, the discrepancies regarding the number of people present in the bathroom during the incident did not require the Board to reject Burton and Malacina's testimony. Contrary to plaintiff's assertion, that number was not a "key fact" in this case. We also reject plaintiff's assertion that Malacina contradicted Burton's testimony that he saw plaintiff holding a beer bottle, as Malacina testified only that he did not recall whether plaintiff had a beer bottle. Furthermore, Burton's inability to identify plaintiff at the hearing did not render his testimony incredible. Although Burton first misidentified plaintiff's attorney as the offender, he immediately acknowledged that the incident was so long ago that he could not recognize the offender. More importantly, the identity of the person who had the knife in the bathroom was not at issue because plaintiff himself admitted to being that person.

In support of his own credibility, plaintiff argues that he has maintained he acted in self-defense during the incident. Nonetheless, the Board was entitled to find he was not credible, particularly in light of the inconsistent representations he provided to Officer Petrauskas, to Martin and at the hearing. Evidence showed that plaintiff first told Officer Petrauskas that six men attacked him, then told Officer Petrauskas only that Burton had picked up a stool and finally told Officer Petrauskas that no stool was used and that plaintiff had "screwed up." When speaking to Martin, plaintiff represented for the first time that he had been attacked not only by Burton, but by a Hispanic man who was also in the bathroom. Although plaintiff's testimony at trial similarly alleged he had been attacked by Burton and a Hispanic man, that testimony was inconsistent with the several different accounts he provided to Officer Petrauskas. The Board could reasonably find that this undermined plaintiff's credibility.

Plaintiff further argues Marino corroborated plaintiff's testimony that he never used a racial slur and kept his knife closed. Because Marino entered the bathroom only after the incident occurred, his testimony does not corroborate plaintiff's account of what happened during the incident. We also observe plaintiff ignores that Burton and Malacina testified plaintiff had opened the knife. In addition, Marino testified plaintiff was still holding the knife when Marino entered the bathroom, contradicting plaintiff's assertion that he had already put the knife down. Finally, we reject plaintiff's assertion that Marino's testimony that Malacina was not in the bathroom when Marino entered contradicts Malacina's testimony that he was in the bathroom until security arrived. Plaintiff misrepresents the record, which shows Malacina testified that as soon as he had left the bathroom, the security guards entered. In any event, whether or not

Malacina had already left the bathroom when security entered is not so significant as to require the Board to reject Malacina's testimony in favor of plaintiff's testimony. After reviewing the evidence in the light most favorable to the Board, we find the Board's findings that plaintiff used racial slurs against Burton, threatened him with a knife and subsequently lied to Martin about his involvement in the incident, were supported by the evidence.

Next, plaintiff asserts that the Board's findings did not support its determination that cause for discharge existed and that the penalty of discharge was arbitrary and capricious. The Board has considerable discretion and latitude in deciding what constitutes cause for discharge. See *Krocka*, 327 Ill. App. 3d at 47. The Board is in the best position to determine the effect of an employee's conduct on the department, and as a result, the Board is afforded considerable deference. *Marzano v. Cook County Sheriff's Merit Board*, 396 Ill. App. 3d 442, 446 (2009). In addition, a reviewing court may not consider whether it would have imposed a more lenient sanction (*Siwek*, 374 Ill. App. 3d at 738) and shall not reverse the agency's finding unless it is unreasonable and arbitrary or unrelated to the requirements of service (*Ehlers*, 183 Ill. 2d at 89). If competent evidence in the record supports the Board's findings, they should be affirmed. *Krocka*, 327 Ill. App. 3d at 47.

Cause has been defined as a substantial short coming which renders continued employment in some way detrimental to the efficiency and discipline of the service and something which sound public opinion and the law recognize as good cause for him to no longer occupy that position. *Ehlers*, 183 Ill. 2d at 89. Police departments require disciplined officers in order to function effectively (*Siwek*, 374 Ill. App. 3d at 738), and a police officer who does not

abide by the laws he is obligated to enforce impairs the efficiency and discipline of the police force (*Krocka*, 327 Ill. App. 3d at 48). The promotion of discipline through sanctioning officers who disobey rules is appropriate and related to the needs of a police force and an officer's violation of a single rule is sufficient to warrant discharge. *Siwek*, 374 Ill. App. 3d at 738.

Here, competent evidence supported the Board's determination that plaintiff violated four Rules by threatening Burton with a knife, using racial slurs against him and subsequently lying about what happened. There is no question that such disregard of the Rules and the law is detrimental to the discipline and efficiency of the Department. Aside from compromising the Department's internal operations, such conduct is offensive and disrespectful to the public. The Board was entitled to determine that retaining an officer who has engaged in the aforementioned acts would undermine the public's confidence and respect for the Department's enforcement of the law. There is no question that sound public opinion and the law would recognize plaintiff's conduct as good cause for him to no longer occupy his position as an officer.

We reject plaintiff's assertion that the Board's decision was arbitrary and capricious because Kill and Carroll testified to plaintiff's fine character and work ethic, plaintiff's record with the Department was exemplary and he had no disciplinary record prior to this incident. An administrative agency is not required to find that mitigating evidence outweighs aggravating evidence and the presence of mitigating evidence, without more, does not show an agency's decision was arbitrary or erroneous. *Siwek*, 374 Ill. App. 3d at 738-39. Plaintiff also asserts that the Department's need to discipline him could have been satisfied by suspending him, relying on the fact that three members of the Board dissented in favor of a less severe penalty. Because the

record supports the majority's determination that cause for discharge existed, we cannot disregard the deference accorded to its determination, in favor of the minority's opinion.

Finally, plaintiff relies on several other cases where this court found discharge was not an appropriate sanction. An agency may find cause for discharge regardless of whether other employees have been disciplined differently. *Launius v. Board of Fire & Police Commissioners of the City of Des Plaines*, 151 Ill. 2d 419, 442 (1992). Whether different individuals received different discipline is relevant only in an identical and completely related case. See *Siwek*, 374 Ill. App. 3d at 738. None of the cases relied on by plaintiff qualify. Nonetheless, we also observe that those cases did not involve an officer using a racial slur and threatening violence. See *Huff v. Rock Island County Sheriff's Merit Comm'n,* 294 Ill. App. 3d 477 (1998); *Styck v. Iroquois County Sheriff's Merit Comm'n*, 253 Ill. App. 3d 430 (1993); *Massingale v. Police Board of the City of Chicago*, 140 Ill. App. 3d 378 (1986); *Kirsch v. Rochford*, 55 Ill. App. 3d 1042 (1977). Accordingly, we find the Board's decision to discharge plaintiff was warranted.

For the foregoing reasons, we affirm the Board's decision.

Affirmed.