

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF TRANSPORTATION

In the Matter of Disciplinary Actions  
Taken Against Linda Bjornberg

NOTICE AND ORDER FOR HEARING  
AND PREHEARING CONFERENCE

IT IS HEREBY ORDERED that a prehearing conference will be held on Thursday, June 19, 2003 at 1:30 p.m. at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota. One of the purposes for the conference will be to establish a schedule for the hearing.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Allan W. Klein, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401-2138, telephone (612) 341-7609.

The prehearing conference and the hearing will be conducted pursuant to the contested case procedures set out in Chapter 14 of Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5100 – 1400.8500, and Minn. Stat. 43A.33. A copy of these materials may be purchased from the Minnesota Book Store, telephone 612-297-3000, or are available at [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us). Copies of the rules are also available at [www.oah.state.mn.us](http://www.oah.state.mn.us).

**ISSUE**

Was there just cause for the disciplinary actions taken against Linda Bjornberg by the Department of Transportation?

Minn. Stat. Sec. 43A. 33 provides, in pertinent part:

If the administrative law judge finds, based on the hearing record, that the action appealed was not taken by the appointing authority for just cause, the employee shall be reinstated to the position, or an equal position in another division within the same agency, without loss of pay. If the administrative law judge finds that there exists sufficient grounds for institution of the appointing authority's action but the hearing record establishes extenuating circumstances, the administrative law judge may reinstate the employee, with full, partial, or no pay, or may modify the appointing authority's action. The administrative law judge's order shall be the final decision, but it may be appealed according to the provisions of sections [14.63](#) to [14.68](#). Settlement of the entire dispute by mutual

agreement is encouraged at any stage of the proceedings. Any settlement agreement shall be final and binding when signed by all parties and submitted to the chief administrative law judge of the office of administrative hearings.

### **ADDITIONAL NOTICE**

1. Either party's failure to appear at the prehearing conference or hearing may result in a finding that the party is in default.

2. If any party has good cause for requesting a delay of the prehearing conference or hearing, the request must be made in writing to the Administrative Law Judge at least five days prior to the prehearing conference or hearing. A copy of the request must be served on the other party.

3. Any party intending to appear at the prehearing conference or hearing must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service of this Notice and Order. A copy must be served on the opposing attorney. A Notice of Appearance form is enclosed

4. At the hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence and cross-examine witnesses, and to submit evidence and argument. Ordinarily the hearing is tape-recorded. The parties may request that a court reporter record the testimony at their expense.

5. Persons attending the hearing should bring all evidence bearing on the case, including any records or other documents. Be advised that if data that is not public is admitted into the record, it may become public data unless an objection is made and relief is requested under Minn. Stat. § 14.60, subd. 2.

6. Requests for subpoenas for the attendance of witnesses or the production of documents at the hearing shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000. A copy of the subpoena shall be served on the other parties. A subpoena request form is available at [www.oah.state.mn.us](http://www.oah.state.mn.us) or by calling 612-341-7600.

7. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge to assign a mediator so that mediation can be scheduled promptly.

8. The Office of Administrative Hearings conducts proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court. A Guide to Participating in Contested Case Proceedings at the Office of Administrative Hearings is available at [www.oah.state.mn.us](http://www.oah.state.mn.us) or by calling 612-341-7600.

9. Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any

party requires an interpreter, the administrative law judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, or may call (612) 341-7610 (voice) or (612) 341-7346 (TTY).

Dated this 23rd day of May, 2003.

/s/ Allan W. Klein

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ALLAN W. KLEIN  
Administrative Law Judge

STATE OF MINNESOTA  
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NOTICE OF APPEARANCE

TO: Administrative Law Judge Allan W. Klein, 100 Washington Avenue South,  
Suite 1700, Minneapolis, Minnesota 55401-2138:

PLEASE TAKE NOTICE that the party named below will appear at the prehearing  
conference and the hearing in this matter.

Name, Address, and Telephone Number of Party:

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Party's Attorney, Office Address and Telephone Number:

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Signature of Party/Attorney: \_\_\_\_\_

Dated: \_\_\_\_\_.

NOTICE: This Notice must be served upon the opposing attorney. After an attorney  
has filed a notice of appearance, withdrawal is effective only if a notice of withdrawal is  
promptly served on all parties and filed with the judge. The notice of withdrawal must  
include the address and telephone number of the party. Withdrawal of counsel does not  
create any right to a continuance. Minn. R. 1400.5700.