

## THIRD DIVISION

**[ A.M. No. P-11-2946 [Formerly A.M. No. 11-5-52-MTCC], July 13, 2011 ]**

**RE: DROPPING FROM THE ROLLS OF CORNELIO RENIETTE CABRERA, UTILITY WORKER I, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 1, LIPA CITY.**

### RESOLUTION

**MENDOZA, J.:**

The present administrative matter concerns Cornelio Reniette Cabrera (*Cabrera*), Utility Worker I of the Municipal Trial Court in Cities, Branch 1 of Lipa City (*MTCC*). Records of the Office of the Court Administrator (*OCA*) disclose that Cabrera has failed to file his Daily Time Records (*DTRs*) from October 2010 up to present and to seek leave for any of his absences. <sup>[1]</sup>

It appears that on October 22, 2010, the *OCA* received Cabrera's sick leave applications <sup>[2]</sup> for the month of September 2010, which covered a total of eleven (11) days. Due to lack of proper documentation, Presiding Judge Renato M. Castillo disapproved the applications for sick leave.

On October 28, 2010, the *OCA* sent a telegram <sup>[3]</sup> to Cabrera requiring him to submit a medical certificate to support his applications for leave. Cabrera, however, did not comply.

On December 1, 2010, the *OCA* forwarded Cabrera's applications for sick leave to the Office of Dr. Prudencio Banzon, Jr. (*Dr. Banzon, Jr.*), Senior Chief Judicial Staff Officer of the Court, <sup>[4]</sup> which also disapproved said application due to lack of proper documentation. <sup>[5]</sup> The *OCA* sent another telegram <sup>[6]</sup> to Cabrera on December 1, 2010, requiring him to submit his *DTRs* for October and November 2010. Once again, Cabrera failed to comply.

In a letter <sup>[7]</sup> dated December 9, 2010, Percival C. Bañaga, the *MTCC* Branch Clerk of Court, informed the *OCA* that Cabrera had continuously failed to report for work without leave since October 20, 2010 up to the present and that he had not filed his *DTRs* for the months of October and November 2010.

This prompted the *OCA* to send two (2) tracer letters <sup>[8]</sup> to Cabrera - one to his residential address and another to his court station, directing that he submit his *DTRs* for the months of October and November 2010. This time, the *OCA* warned Cabrera that his name would be recommended for dropping from the rolls if he failed to comply.

Despite being served the tracer letters, <sup>[9]</sup> Cabrera failed to heed the directive of the

OCA. Thus, on December 9, 2010, the OCA issued its Memorandum <sup>[10]</sup> ordering the withholding of Cabrera's salaries and benefits.

In its evaluation of the matter, the OCA submitted its Agenda Report <sup>[11]</sup> dated May 17, 2011, wherein, referring to Section 63, Rule XVI of the Omnibus Rules on Leave it recommended that Cabrera's name be dropped from the rolls for being absent without leave (AWOL). The OCA further recommended that Cabrera's position be declared vacant and that he be informed at his residential address on record of his separation from the service or the dropping of his name from the rolls.

The OCA Report also informed the Court that upon verification, Cabrera had not filed any application for retirement and that no previous administrative complaint had been filed against him.

The OCA's recommendation is well-taken.

Pursuant to Section 63, Rule XVI of the Omnibus Rules on Leave, as amended by Civil Service Resolution No. 070631, an employee's absence without official leave for at least 30 working days warrants his separation from the service. The Rule specifically provides:

*Sec. 63. Effect of absences without approved leave.*-An official or employee who is continuously absent without approved leave for at least thirty (30) working days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. However, when it is clear under the obtaining circumstances that the official or employee concerned, has established a scheme to circumvent the rule by incurring substantial absences though less than thirty working (30) days 3x in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.

If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work-Order shall be served to him at his last known address on record. Failure on his part to report for work within the period stated in the order shall be valid ground to drop him from the rolls.

In this connection, Section 63, Rule XVI, of the Omnibus Civil Service Rules and Regulations, as amended by Circular No. 14, s. 1999, provides:

*Section 63. Effect of absences without approved leave.* - An official or employee who is continuously absent without approved leave for at least thirty (30) calendar days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall, however, be informed, at his address appearing on his 201 files, of his separation from the service, not later than five (5) days from its effectivity.