

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. T18-001

In the matter of:)
)
Heather Nicole Tallent,)
)
Respondent.)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION

In accordance with N.C. Gen. Stat. § 150B-42, the North Carolina Board of Funeral Service (hereinafter the “Board”) issues the following Findings of Fact, Conclusions of Law, and Final Agency Decision in this matter.

The record reflects that a quorum of the Board was present at the hearing and at the time the Board made this decision. Board members Mark Blake, Don Brown, Charles J. Graves, Steve Herndon, Valdus T. Lockhart, Craig Olive, Michael C. Stone, Chris Watson, and Matt P. Staton, Chair, participated in the hearing. Catherine E. Lee, General Counsel, appeared for the Board staff. Attorney Margaret A. Craven appeared as Administrative Law Counsel for the Board. Respondent Heather Nichole Tallent (hereinafter the “Respondent”) appeared for herself, and was not represented by counsel.

Before the hearing, the following inquiry was read aloud in accordance with state ethics laws: "Does any Board member have any known conflicts of interest with respect to this matter coming before the Board? If so, please identify the conflict or appearance of conflict and refrain from any undue or inappropriate participation in the particular matter involved." No participating Board member identified any conflict of interest or appearance of a conflict. Before the hearing began, Respondent confirmed to the Board that she did not wish to seek the recusal of any Board member participating in the hearing.

PROCEDURAL HISTORY OF THE CASE

From September 1, 2016 to January 23, 2018, Respondent was registered as a resident trainee in funeral directing with the Board. On or about January 23, 2018, Board staff notified Respondent that her traineeship had been terminated for failing to comply with certain statutes and rules governing her responsibilities in her resident traineeship. On or about February 19, 2018, Respondent requested a hearing before the Board to have her traineeship reinstated. On February 21, 2018, the Board issued a Notice of Hearing in case T18-001. The Notice of Hearing was served on Respondent on or about February 26, 2018. The hearing took place as scheduled by the Notice of Hearing on Wednesday, March 14, 2018, at the Board's offices at 1033 Wade Avenue, Suite 108, Raleigh, North Carolina 27605.

PETITIONER'S LIST OF EXHIBITS

1. Board Database Printout
2. Notice of Hearing and Proof of Service
3. Letter from Board Staff to Respondent
4. Traineeship Suspension Letter to Respondent
5. Traineeship Committee Recommendation Letter to Respondent
6. Late/Missing Monthly Work Report Letter to Respondent
7. Unclaimed Late/Missing Monthly Work Report Letter to Respondent
8. Traineeship Renewal Letter to Respondent
9. Email from Board Staff to Respondent
10. Respondent's 2017 September Monthly Work Report
11. Email from Board Staff to Respondent
12. Respondent's December 2017 Monthly Work Report

13. Termination of Traineeship Letter to Respondent
14. Respondent's Request for Hearing

RESPONDENT'S LIST OF EXHIBITS

1. None

PETITIONER'S LIST OF WITNESSES

1. Amy D. Mauldin

RESPONDENT'S LIST OF WITNESSES

1. Heather Nicole Tallent

FINDINGS OF FACT

1. From September 1, 2016 to January 23, 2018, Respondent was registered as a resident trainee in funeral directing and was subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).
2. Pursuant to North Carolina General Statute section 90-210.25(a)(4)e. and 21 NCAC 34B .0110, each trainee must file a work report no later than the tenth day of the calendar month after the completion of each one-month period of resident traineeship.
3. Pursuant to 21 NCAC 34B .0110, failure to submit work reports when due is sufficient cause for suspension or revocation of the certificate of resident traineeship.
4. On or about January 31, 2017, Board staff sent a letter via U.S. Mail to Respondent indicating that Respondent's November 2016 monthly work report was not received until December 14, 2016, and that if Respondent's report was unfiled or late again, Respondent's traineeship would be suspended and referred to the Traineeship Committee.

5. On or about February 20, 2017, Board staff sent a letter via U.S. Mail to Respondent indicating that Respondent's December 2016 monthly work report was not received until January 13, 2017; Respondent's January 2017 monthly work report was not received until February 11, 2017; and that Respondent's traineeship was suspended until Respondent met with the Traineeship Committee.
6. Respondent met with the Traineeship Committee on March 8, 2017, and Respondent's traineeship was reinstated effective immediately.
7. On or about March 8, 2017, Board staff sent a letter via U.S. Mail to Respondent indicating that Respondent's traineeship was reinstated and that any further late monthly work report filings would be referred to a hearing before the Board.
8. On or about July 18, 2017, Board staff sent a letter via Certified Mail to Respondent indicating that Respondent's June 2017 monthly work report had not been filed; that Respondent had lost credit for work performed during June 2017; and that Respondent's traineeship would be automatically terminated if Respondent failed to timely submit any future monthly work report.
9. On or about August 14, 2017, the July 18, 2017, letter sent via Certified Mail to Respondent was returned as unclaimed.
10. On or about July 28, 2017, Board staff sent a letter via U.S. Mail to Respondent indicating that Respondent's traineeship would expire on September 1, 2017, and, to avoid termination of Respondent's traineeship, the traineeship needed to be renewed or certified on or before September 1, 2017.
11. On or about October 18, 2017, Board staff sent an email to Respondent informing her that, to avoid termination, her traineeship would need to be renewed on or before

November 1, 2017; that, to avoid further disciplinary action, the September 2017 monthly work report was due immediately; that until all traineeship requirements were met, Respondent must send in a monthly work report on or before the tenth day of each month; and that a copy of the July 18, 2017, disciplinary letter that had been returned to the Board as unclaimed was attached.

12. On or about November 1, 2017, Respondent filed her September 2017 monthly work report.
13. On or about November 6, 2017, Respondent renewed her traineeship.
14. On or about January 16, 2018, Board staff sent an email to Respondent indicating that her December 2017 monthly work report had not been received.
15. On or about January 19, 2018, Respondent filed her December 2017 monthly work report.
16. On or about January 23, 2018, Board staff sent a letter via Certified Mail to Respondent indicating that her traineeship had been terminated for failing to file monthly work reports in a timely manner.
17. The January 23, 2018, certified letter sent to Respondent was delivered on January 26, 2018.
18. On or about February 19, 2018, Respondent requested a hearing before the Board to have her traineeship reinstated.
19. On February 21, 2018, the Board issued a Notice of Hearing.
20. On March 14, 2018, a hearing in this matter was held before the Board.

Based upon the foregoing FINDINGS OF FACT, the Board makes the following:

CONCLUSIONS OF LAW

1. Respondent is subject to jurisdiction before the Board.
2. Respondent was properly served with process.
3. The Board is authorized to hear this matter pursuant to Article 3A, Chapter 150B of the North Carolina General Statutes.
4. The acts and omissions of Respondent as described in Paragraphs 1-20 violate N.C. Gen. Stat. § 90-210.25(e)(1)j., which prohibits violating any provision of Articles 13A, 13D, 13E, and/or 13F of Chapter 90 of the North Carolina General Statutes, all rules and regulations of the Board, and the standards set forth in 16 C.F.R. § 453 (1984), as amended from time to time.
5. The acts and omissions of Respondent as described in Paragraphs 1-20 violate N.C. Gen. Stat. § 90-210.25(a)(4)e. and 21 NCAC 34B .0110, by failing to file a work report no later than the tenth day of the calendar month after the completion of each one-month period of resident traineeship.
6. Pursuant to N.C. Gen. Stat. § 90-210.25(a)(4)g., the Board has the authority to suspend or revoke a certificate of resident traineeship.

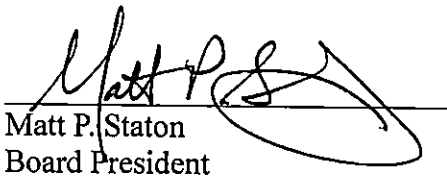
FINAL AGENCY DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the North Carolina Board of Funeral Service hereby issues the following decision:

- I. The revocation of Respondent's resident traineeship is **AFFIRMED**.
- II. This decision shall take effect upon service of this Final Agency Decision on the Respondent.

III. Under N.C. Gen. Stat. § 150B-45, Respondent has thirty (30) days from the date that she receives this Final Agency Decision to file a Petition for Judicial Review. The Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.

By Order of the North Carolina Board of Funeral Service, this the 8 day of May, 2018.

By: 
Matt P. Staton
Board President

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Findings of Fact, Conclusions of Law, and Final Agency Decision** was served upon the following person by email and by mailing a copy, by U.S. Mail, Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Heather N. Tallent
1829 Parson Street
Charlotte, NC 28205



Heather N. Tallent
1937 N. Sharon Amity Road
Charlotte, NC 28205

This, the 9 day of May, 2018.

A handwritten signature in black ink, appearing to read "Catherine E. Lee", written over a horizontal line.

Catherine E. Lee
General Counsel