

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DANIEL WILLIAMS, Complainant,

vs.

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND
PROFESSIONAL SERVICES, Respondent.

Case ID: 55.0016
Case Type: COMP_PPS

DECISION NO. 37790-C

Appearances:

Aaron N. Halstead, Attorney, Hawks Quindel, S.C., 409 East Main Street, P.O. Box 2155, Madison, Wisconsin, appearing on behalf of Daniel Williams.

William H. Ramsey, Attorney, Department of Administration, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Safety and Professional Services.

DECISION ON PETITION FOR REVIEW

On September 25, 2018, Daniel Williams filed an unfair labor practice complaint with the Wisconsin Employment Relations Commission alleging that his dismissal from an unclassified service position in the Department of Safety and Professional Services (DSPS) was based on allegations that were barred from consideration under a Settlement Agreement Williams entered into with DSPS' predecessor agency in March, 2005. A hearing was conducted by Examiner Peter G. Davis on February 11, 2019. A hearing transcript was received on February 15, 2019, and the parties thereafter filed written argument by April 12, 2019.

On May 2, 2019, Examiner Davis issued Findings of Fact, Conclusion of Law, and Order dismissing the complaint.

On May 20, 2019, Williams filed a Petition for Review and filed a brief in support on June 10, 2019. DSPS filed a brief in opposition on June 28, 2019. Williams filed a response to the oppositional brief on July 15, 2019.

The Commission has considered the matter and concluded that the May 2, 2019 decision does not contain any material errors of fact or law.¹

As such, Examiner Davis' reasoning is sound.

NOW, THEREFORE, it is

ORDERED

The Examiner's Findings of Fact, Conclusion of Law, and Order are affirmed.

Dated at Madison, Wisconsin, this 23rd day of August, 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

¹ The Settlement Agreement entered into by Williams does not take into consideration the potential future movement into an unclassified position with the State. It is well established the threshold for removal from an unclassified position and conversely the protections (or lack thereof) for unclassified service are far less than those of classified service, with the notable exception of the right to restoration to the prior classified position after leaving unclassified service. § 230.33(1), Stats. Unclassified employees serve "at the pleasure" of their respective appointing authority. In this instance, the restoration of Williams back to his prior position in classified service was done in a manner consistent with the lowered expectations and protections afforded individuals who move from classified to unclassified positions and the broad discretion afforded the appointing authority. There is no evidence that Williams suffered any subsequent demotion following restoration or other consequence due to the prior allegations, and he was made "whole" in his reinstatement back to his classified position. Thus there was no consequence demonstrated that breached the Settlement Agreement.