

STATE OF WISCONSIN

BOARD OF PERSONNEL

LOUIS F, RODEY,

\*\*

Appellant,

\*\*

vs.

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FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

JOHN WEAVER, PRESIDENT  
UNIVERSITY OF WISCONSIN,

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#570

Respondent.

Hearings have been conducted in this matter before the Wisconsin State Personnel Board on April 11, 1972; April 21, 1972; and June 15, 1972. A transcript having been reviewed and examined by the Board and briefs thereon have been filed for and on behalf of the appellant, Louis F. Rodey, by Joseph F. Preloznik, his attorney, and for and on behalf of the respondent, John Weaver, as President of the University of Wisconsin systems, by Charles Bleck, his attorney, and the Board having considered all of the matters therein enters the following:

FINDINGS OF FACT

1. The appellant, Louis F. Rodey, is a classified State employe, employed by the Wisconsin State University-Stout with the former classification of Superintendent of Building and Grounds 2 (SR 1-13).

2. The respondent, by letter dated January 14, 1972, addressed to the appellant, Louis F. Rodey, advised that he was being involuntarily demoted from the classification of Superintendent of Building and Grounds 2, effective January 24, 1972, to Maintenance Mechanic 1 (SR 3-07). The stated written reasons for such action were:

1. That the appellant did not plan fiscal expenditures nor control budgetary activities.
2. That the appellant did not comprehend the responsibilities of management.
3. That the appellant did not carry out assignments.
4. That the appellant did not use good judgment.

3. On the receipt of the notification of demotion, the appellant timely appealed this action to the State Personnel Board by letter dated January 25, 1972.

4. At the time of the demotion action, the salary schedule provided for Range 1-13 a minimum monthly payment of \$893 and a maximum of \$1,162 for those positions assigned to salary range 13. That at the time of the demotion of the appellant the minimum for salary range 3-07 was \$598 and a maximum of \$712. At the time of the demotion action the appellant's salary was reduced from \$1,162 per month to the range maximum of \$712 per month.

5. The appellant was first employed by Stout State University on December 20, 1956, with the initial classification of Operating Engineer 1, and later became an Operating Engineer 2, a Supervisor of Building Maintenance 2 and a lateral reallocation of Utilities Engineer 1 and reallocated September 11, 1963, to the classification of Superintendent of Building and Grounds 2.

6. There was a gradual increase in school enrollment over the period of years and a rapid acceleration in growth both in total enrollment and number of employes for the period 1961-1971. The total Physical Plant budget in this ten-year period grew to four times its normal size. The total number of employes for Physical Plant increased four times during this same period and the total number of buildings on the Stout campus doubled during this period of time.

7. The approximate budget for building and grounds for 1969-1970 was approximately \$900,000 and the following year this budget exceeded \$1,000,000. This budget in the year 1961 was approximately \$271,000.

8. The accelerated growth of the university increased to such an extent that approximately 90 men were employed in the building and grounds unit for which the appellant had supervisory responsibility.

9. During this ten-year period of growth, substantial problems of budgetary control, preparation of work schedules, assignment of job priorities and operation of laundry function occurred.

10. Initially, the appellant was supervised by Mr. Edgar J. Schoepp, Vice President of Business Services, and he was the appellant's immediate supervisor. That on July 1, 1971, Mr. Schoepp's position was changed to that of a Vice Chancellor of Administrative Services and an additional intervening position

as Director of General Services was created. Mr. Schoepp's duty was the direct responsibility with the budget, and James R. Nowaskey was charged with the responsibility for program planning, establishing standards and objectives, and directing, coordinating business affairs of the university. The activities included the operation of the Physical Plant, maintenance and repair of buildings, supervision of the mail services, securities and stores operations. That after July 1, 1971, appellant was directly supervised by James R. Nowaskey.

11. The position duties of building and grounds superintendent are a high level managerial position and requires the implementation of the planning, scheduling and supervision of work performed by those assigned to his custody and to perform the necessary services within the authorized budget.

12. While as a part of his position duties, the appellant had the responsibility of planning his building and grounds maintenance activities within the expenditures authorized by law and the budget enacted by the Legislature, and that he experienced considerable difficulty in controlling such overtime costs of men assigned to his supervision, together with failure to maintain accountability for materials and supplies; that the final and ultimate responsibility for these functions is rested in the appellant's supervisor, James R. Nowaskey.

13. A material part of the appellant's position duties was the ultimate responsibility of the management and supervision of those positions assigned to his control. This activity required the performance of administrative planning so that maximum efficient use of the activity, planning, cost control and efficient operation of material and manhours could be achieved. While the appellant failed to substantially perform these functions in a satisfactory manner, the ultimate responsibility was that of his immediate supervisor, who must bear the responsibility for such deficiencies.

14. The appellant experienced difficulties in performing with the proficiency expected by his supervisor, and that with close and immediate super-

vision, the necessary goals were not attained and the ultimate responsibility of such failure is the responsibility of the appellant's supervisor. The special assignment given to the appellant in 1971 was an attempt to materially change and lessen the responsibilities of the appellant's position and an attempt to restructure his position and constituted an attempted disciplinary action not authorized by statute.

15. The ultimate responsibility for whatever failures to perform in a proper manner by the appellant rested with his supervisory superiors and such deficiencies are not the direct responsibility of the appellant and items for which he should be held strictly accountable.

16. That many of the deficiencies and difficulties experienced by the appellant were the result of his initial decisions and determinations; he did not bear the ultimate and final responsibility and accountability for such determinations. The ultimate responsibility belonged to others in the supervisory chain of command and that such failures do not constitute the ultimate responsibility of the appellant's position and are not a proper basis for the disciplinary action imposed.

The Board having entered the foregoing Findings of Fact enters the following:

#### CONCLUSIONS OF LAW

1. The action of the respondent in demoting the appellant from his position of Building and Grounds Superintendent 2 to Maintenance Mechanic 1 cannot be justified on the basis of the testimony and proof offered herein.

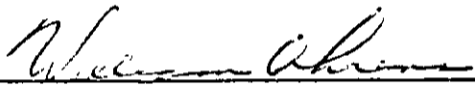
2. Just cause did not exist for the determination of the appointing authority in the demotion of the appellant.

3. The appeal from such demotion be and the same is hereby determined to be without sufficient and just cause and the respondent<sup>s</sup> is hereby required to fully reinstate the appellant herein.

Dated at Madison, Wisconsin this 1st day of May, 1973.

STATE PERSONNEL BOARD, By

Members Steininger and Julian did not participate in the hearing and did not participate in the decision.

  
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William Ahrens  
Chairman

Mr. John H. Shiels and Mr. Jerry Slechta did not participate in the decision. Both resigned from the Board prior to the conclusion of this appeal.

STATE OF WISCONSIN

BOARD OF PERSONNEL

LOUIS F. RODEY,

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Appellant,

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vs.

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ORDER

JOHN WEAVER, PRESIDENT  
UNIVERSITY OF WISCONSIN,

\*\*

\*\*

Respondent.

The Board having entered its Findings of Fact and Conclusions of Law in this matter, hereby makes and files the following Order:

1. That the action of the respondent, in demoting the appellant from his position of Building and Grounds Superintendent 2 to Maintenance Mechanic 1, be and the same is hereby Ordered set aside.

2. It is further Ordered that the appellant, Louis F. Rodey, be reinstated to his former position of Building and Grounds Superintendent 2 with the same rights and privileges as he would have been entitled to had such demotion not, in fact, occurred.

3. It is further Ordered that the appellant be entitled to and receive all pay allowances and benefits he would have been entitled to receive had such demotion not, in fact, occurred.

Dated at Madison, Wisconsin this 15 day of May, 1973.

STATE PERSONNEL BOARD, By

William Ahrens  
William Ahrens  
Chairman