

# OFFICIAL

STATE OF WISCONSIN

BOARD OF PERSONNEL

BENNY J. EMERSON,  
Appellant,

vs.

OPINION  
AND  
ORDER

PHILIP LERMAN, Chairman,  
Department of Industry, Labor  
and Human Relations,  
Respondent. #578

Before Ahrens, Chairman: Brecher, Steininger and Julian

Benny J. Emerson was employed by the Department in its Milwaukee office of the State Employment Service. His primary duties involved interviewing new applicants for assistance in finding employment. Emerson's immediate supervisor was George Thomas, who supervised a total of ten employes in his unit, engaged in interviewing, counseling, and placement. Thomas's immediate supervisor was Harry Sherfinski, who supervised the Milwaukee office and its staff of 48 employes.

On October 10, 1972, Thomas requested Emerson to confer with him regarding Emerson's work, in an area of the office in some proximity to where job applicants waited to have their applications taken. Emerson insisted that any conference regarding his work be held in Thomas's office, which was somewhat more removed from the waiting area. In view of this stalemate, Thomas then requested Emerson to go with him to discuss the matter with Sherfinski, which they then did. As soon as the meeting convened, Thomas advised Sherfinski of the dispute that had arisen between himself and Emerson, relative to where it would be appropriate for them to discuss Emerson's work.

The parties to this proceeding are in sharp disagreement as to what happened next at the meeting. Thomas and Sherfinski testified that Emerson threatened them, while Emerson denied doing so. We believe Thomas and Sherfinski and we do not believe Emerson.

We find that the following took place: Emerson, in response to Thomas's statement, became quite upset, shook his clenched fist at Thomas, and told him the next time he approached him like that he (Emerson) was going to kick the shit out of him. Sherfinski then tried to "placate" the situation by half smiling, whereupon Emerson turned to him and told him, "That goes for you, too, Harry." Sherfinski took the threat seriously. Sherfinski then attempted to reason with Emerson and told him that he had to observe the rules and regulations as they pertained to the operation.

Emerson was given a three-day disciplinary suspension for "insubordination, threatening your supervisors, and using foul and abusive language." The letter to Emerson, which notified him of this action, detailed other facts relating to Emerson's work record, which the respondent felt further justified the suspension, including Emerson's poor attendance record, and other instances in which he used abusive language toward both his supervisor and towards applicants for employment assistance.

The Board concludes that the respondent's action in suspending the appellant on October 17, 18 and 19, 1972, was for insubordination and making a threat and using foul and abusive language to supervisors and, therefore, was for just cause, within the meaning of Section 16.28, Wisconsin Statutes.

It is ordered that this appeal be, and hereby is, dismissed.

STATE BOARD OF PERSONNEL

By

William Ahrens  
Chairman