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Findings will be made with regard to the various allegations contained in these documents.

The memo of July 14, 1976, deals first with excessive absenteeism:

"As of June 10, 1976, you have used all of your personal holidays, all of your sick leave, and have been off the payroll an additional 40 hours without pay. This means that since January 12, 1976, you have been absent from work a total of 166.2 hours (20-3/4 days) . . . "

These allegations were not contested and it is found that the appellant was absent over the period and in the amounts so alleged.

The second allegation concerns failure to call in or to obtain permission for absences:

"In addition, on many occasions, you have not obtained permission for your absence, or you have failed to notify your supervisor that you did not intend to report for work on a certain day (see attached sheet)."

The record supports a finding that on two consecutive days during this period the appellant failed to provide advance notice that she would be coming in late, due to alarm clock malfunctions which caused her to oversleep.

The third allegation concerns performance problems:

"There have been frequent complaints from you about your work, and I have noticed a very negative attitude in the performance of your duties. This mainly centers on your high number of typing errors on reports which necessitates that the reports be retyped, and your poor proofreading of reports before they are submitted."

The record supports a finding that the appellant's work was subject to a high number of typing errors and inadequate proofreading during the period in question.

The fourth allegation concerns primarily attitudinal problems:

"In addition, you seem unable to accept supervision or constructive criticism about your work. On several occasions you have called CAC staff members at home to complain about me and the CAC in general. This practice must cease, and if you have problems in the future, they should be discussed with me."

It is found that appellant did call CAC staff members and did complain about work conditions, including the nature of her supervision.

The letter of August 27, 1976, noted only a slight improvement in attendance since the previous letter. The record supports a finding to this effect.

The letter cited two examples of failure to notify her supervisor that she did not intend to report to work. On July 22, 1976, it was alleged she did not call in until 8:10 a.m. On July 27, 1976, it was alleged that her supervisor had to call her to determine why she had not reported for work. The record supports a finding that on July 27, 1976, the appellant called the office at about 7:40 a.m. and that her supervisor called her back after 8:00 a.m. The record also supports a finding that on July 22, 1976, the appellant's car stalled on the way to work and that she called in as soon as she could which was about 8:10 a.m.

It was further alleged that appellant continued to approach her work in an indifferent manner, citing an August 20, 1976, incident:

"You called the business office to check your vacation and sick leave balances and informed the person you talked to that you did not feel like coming in that day because you hated your supervisor (me). You also said that you would decide later what account you would charge those eight (8) hours to."

The respondent presented no evidence on this point. There is no evidence in the record on this point, and therefore it cannot be found that a call of this nature occurred as alleged.

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It was further alleged that:

". . . there are still a high number of typing errors on reports, and this necessitates corrections, or, in some cases, retyping. Retyping of reports occurred with a Work Sample #41 and a CAC Work Slip on August 19, 1976, and on confidential reports that you typed on clients July 26, August 13, and August 18 (2 reports), 1976."

It is found that appellant's typing contained errors as alleged in the preceding subparagraph.

It was further alleged that when her immediate supervisor discussed the foregoing reports with the appellant, she "still seemed unwilling to accept constructive criticism, or any supervision, in general." It is found that there was a certain amount of friction between the appellant and her supervisor but the record does not support a finding that in this instance the appellant evinced an unwillingness to accept constructive criticism or any supervision generally.

It was further alleged that appellant used work phones to make an excessive number (6 or 7) personal phone calls per day. It is found that appellant made an average of one or two personal phone calls a day from office phones, sometimes while on break time and occasionally not.

It was further alleged that when the appellant's supervisor was not present, the appellant's productivity decreased significantly and that she used the time when her supervisor was not present to make personal calls and to discuss personal problems with other staff people, which conduct was disruptive to office staff and to clients coming into the office for assistance. The record does not support a finding that the appellant conducted herself as alleged.

The appellant made a number of allegations and testified at some length concerning the working conditions in her office and the nature of her supervision. This evidence was taken in part subject to the objection of the respondent. Since there was insufficient evidence on which to base a finding that those allegations, if established, directly impaired appellant's attendance and employment performance in such a manner as to constitute a proximate or direct cause of the deficiencies set forth in the suspension documents, it is unnecessary to make findings regarding these numerous allegations.

CONCLUSIONS OF LAW

In an appeal of a disciplinary action such as this, the question is whether the employe's conduct or performance, as found, constitutes just cause for the discipline imposed, here a three-day suspension. The Wisconsin Supreme Court in Safransky v. Personnel Board, 62 Wis. 2d 464, 474, 215 N.W. 2d 379 (1974), reiterated the test for determination of whether just cause exists as follows:

" . . . one appropriate question is whether some deficiency has been demonstrated which can reasonably be said to have a tendency to impair his performance of the duties of his position or the efficiency of the group with which he works."

The findings in this case support a determination that just cause for the suspension exists. The appellant's absenteeism was, by her own admission, excessive. While she went to some lengths to defend the reasons for her absences, the respondent stipulated on the record that it was not contending that the causes or reasons for her absences were improper. The Supreme Court has held that excessive absenteeism may constitute cause for discharge, regardless of the fact that the cause for the absences were beyond the control

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of the employe. See Jabs v. State Board of Personnel, 34 Wis. 2d 245, 148 N.W. 2d 853 (1967). Inadequate performance of assigned work, such as typing, also impairs the performance of the employe's duties and the efficiency of the work unit. See Zehner v. Weaver, Wis. Pers. Bd. No. 74-98.

The conduct of appellant in calling other staff members to complain about working conditions, including the nature of her supervision, was not shown to have an adverse effect on the work unit. Such conduct cannot be concluded to have such an effect as a matter of law, unlike more obvious conduct, such as excessive absenteeism.

The appellant was charged with making excessive personal phone calls from office phones.* The respondent did not sustain its burden of proof that appellant made an excessive number of such calls, and it is not clear whether it would consider a non-excessive number to contribute to the grounds for suspension. In any event, it is concluded that the findings on phone calls set forth above did not have a sufficient tendency to impair the performance of the duties of her position or the efficiency of her work unit to constitute just cause in whole or in part for the discipline here imposed.

As was indicated, the appellant presented evidence at the hearing concerning working conditions and the nature of her supervision. This material would only have been material to the extent that it could have been found to directly impair appellant's attendance and employment performance in such a manner as to constitute a proximate or direct cause of the deficiencies set forth in the suspension letter. Since there was no such finding, it is concluded that these allegations are immaterial.

* It was not alleged nor was there any evidence that these were other than local calls.

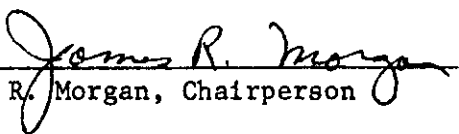
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There are sufficient findings to support a conclusion that there was just cause for the suspension imposed.

ORDER

The action of the respondent is sustained and this appeal is dismissed.

Dated: 11-15, 1977. STATE PERSONNEL BOARD


James R. Morgan, Chairperson