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COURT OF APPEALS
 OF WISCONSIN

Marilyn L. Graves
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December 11, 1985

Madison,

To: Clerk of Circuit Court
 (L.C. #03203044)
 (Dane County)

Donald E. Carroll
 310 E. Wilson Street
 Madison, WI 53703

Hon. William F. Eich
 Madison, Wisconsin

Nadim Sahar
 Asst. Attorney General

You are hereby notified that the Court entered the following opinion and order:

84-1726 Belford E. Hogoboom v. State of Wisconsin
 Personnel Commission

Before Moser, P.J., Wedemeyer and Sullivan, JJ.

Belford E. Hogoboom (Hogoboom) appeals the trial court's affirmance of the Wisconsin Personnel Commission's determination that Insurance Commissioner Susan Mitchell (Mitchell) had just cause to terminate his employment. Based upon our review of the briefs and record at conference, we conclude that this case is appropriate for summary disposition. See Rule 809.21, Stats. We affirm the judgment of the trial court.

Hogoboom began employment in the Office of the Commissioner of Insurance (OCI) in 1958. In 1968, Hogoboom became manager of the life insurance and property insurance funds administered by the OCI. He accepted a voluntary demotion

to a position as chief of the property fund in 1979. Mitchell ultimately fired Hogoboom effective April 11, 1980.

The Personnel Commission adopted its hearing examiner's findings of fact that Hogoboom was unable to detect or resolve serious problems in his areas of responsibility, that he failed to notify his supervisor adequately of his program's problems, and that he inadequately supervised the employees of the property fund. The Commission concluded as a matter of law that Hogoboom was justly discharged. The circuit court agreed.

This appeal raises two issues: (1) is there substantial evidence to support the commission's findings confirming Mitchell's reasons for terminating Hogoboom?; and (2) was there just cause for terminating Hogoboom?

On judicial review under sec. 227.15, Stats., an administrative agency's findings of fact are conclusive if supported by substantial evidence in view of the entire record. Chicago, Milwaukee, St. Paul & Pacific Railroad v. DILHR, 62 Wis. 2d 392, 396, 215 N.W.2d 443, 445 (1974) (citations omitted); see sec. 227.20(6), Stats. The substantial evidence test is whether reasonable minds could arrive at the same conclusion reached by the agency. State ex rel. Palleon v. Musolf, 117 Wis. 2d 469, 473, 345 N.W.2d

73, 76 (Ct.App. 1984) (citation omitted), aff'd, 120 Wis. 2d 545, 356 N.W.2d 487. The scope of appellate review is identical to that of the circuit court. Guthrie v. WERC, 107 Wis. 2d 306, 315, 320 N.W.2d 213, 218 (Ct.App. 1982), aff'd 111 Wis. 2d 447, 331 N.W.2d 331 (1983) (citation omitted).

Our review of the evidence persuades us that the record supporting Hogoboom's discharge was overwhelming. The problems affecting the property fund in 1979 were serious. The fund's ledger contained no entries after December 31, 1978. Reconciliation of receipts and disbursements was complete only through January, 1979, although it is a basic business practice. The figures for insurance in force were overstated by \$1.5 billion. This error alone, if undetected, would have cost the fund an additional \$50,000 to \$60,000 in unnecessary reinsurance premiums. Hogoboom used incorrect insurance rates on some policies. Accounting problems existed in the cash receipts and disbursement's journal. The accounting system was antiquated. Billings were months overdue. There was a large backlog in underwriting policies, and endorsements to existing policies were not being processed efficiently. These problems taken together demonstrate Hogoboom's inability to supervise and manage the daily operation of the fund.

There is also ample evidence in the record that Hogoboom inadequately supervised his staff. Hogoboom failed to monitor or review his staff's work product to ensure proper performance. He failed to give the staff specific assignments on a daily, weekly, or monthly basis. Hogoboom did not adequately train his staff. Within three months of Hogoboom's departure, his staff was able to operate the property fund properly under the leadership of a different supervisor.

Finally, Mitchell testified that at no time prior to his termination did Hogoboom notify her of these problems. We will not second guess the Commission's judgment that Mitchell's testimony was more credible than Hogoboom's. See Hilboldt v. Wisconsin Real Estate Brokers' Board, 28 Wis. 2d 474, 482, 137 N.W.2d 482, 486 (1965).

Just cause for discharge exists when "the employee's misconduct has sufficiently undermined the efficient performance of the duties of employment" Safransky v. Personnel Board, 62 Wis. 2d 464, 475, 215 N.W.2d 379, 384 (1974). Hogoboom's deficiency as a manager left the property fund in disarray. Under his supervision, the fund was not operating as the legislature intended. Because Hogoboom's staff members were not adequately supervised or trained, they could not perform their duties satisfactorily.

The Personnel Commission was correct when it found that the decision to terminate Hogoboom was based on just cause.

Upon the foregoing reasons,

IT IS ORDERED that the final order of the circuit court is summarily affirmed pursuant to Rule 809.21, Stats.

Marilyn L. Graves
Clerk of Court of Appeals