



You received disciplinary action for violation of Work Rule #14, Category A, that occurred on August 25, 1992.

You are therefore, not being recommended for reclassification to the Officer 2 level at this time. You will be reevaluated six months from the date of your latest infraction.

6. In order to be reclassified from the Officer 1 to the Officer 2 level within the DOC, certain training, experience, and performance standards must be met. One of the performance standards requires "formal discipline free work record for the last 6 months."

#### CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Stats.
2. The appellant has the burden to prove that respondents' decision not to reclassify his position to the Officer 2 level was incorrect.
3. The appellant has failed to sustain this burden.

#### OPINION

The record clearly shows that one of the criteria for reclassification of DOC positions from the Officer 1 level to the Officer 2 level is a " formal discipline free work record for the last 6 months." The record also clearly shows that appellant did not possess such a record at the time his position first became eligible for reclassification to the Officer 2 level. Appellant does not dispute this. Appellant's sole argument is that the requirement is unfair, i.e., it punishes him twice for a single series of incidents.

This argument is not convincing. The classification scheme for positions in a progression series, such as that in which the Officer 1 and Officer 2 classifications in DOC are encompassed, contemplates that employees will reach a certain level of training, experience, and proficiency before classification to the higher level is warranted. The respondents here have determined that, in a correctional setting, knowledge of and compliance with the work rules is an indicator of having received the training and experience and having achieved the level of proficiency required for reclassification to the Officer 2 level. Appellant has failed to show that this determination is unreasonable. Based on this determination, DOC has consistently applied the

discipline-free requirement to employees eligible for reclassification to the Officer 2 level, including appellant. In the absence of a showing by the appellant that respondents' discipline-free work record standard is inconsistent with some broader classification requirement, or has been inconsistently applied by respondents, this is the standard which will be applied by the Commission. As stated above, appellant has clearly failed to meet such standard.

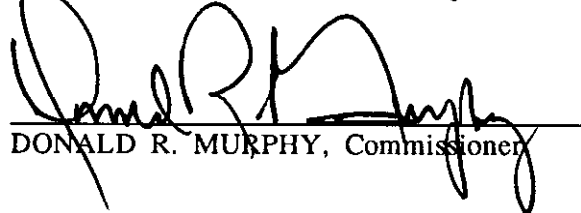
ORDER

The action of respondents is affirmed and this appeal is dismissed.

Dated: June 23, 1993 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

LRM:rcr

  
DONALD R. MURPHY, Commissioner

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NOTICE  
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW  
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

**Petition for Rehearing.** Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

**Petition for Judicial Review.** Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.