

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JAMES RIENDEAU, Appellant,

vs.

UNIVERSITY OF WISCONSIN SYSTEM, Respondent.

Case 29
No. 71986
PA(adv)-294

DECISION NO. 34076-C

Appearances:

James Riendeau, 1141 Sunridge Drive, Madison, Wisconsin, appearing on behalf of himself.

Laura Amundson, Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin, appearing on behalf of Respondent University of Wisconsin System.

DECISION AND ORDER

James Riendeau appeals his termination from his position as an IS Computer Services Senior with the University of Wisconsin School of Medicine and Public Health, Department of Medical Microbiology and Immunology, effective May 4, 2012. Riendeau exhausted the state employee grievance procedure and, on February 13, 2013, filed a timely appeal with the Wisconsin Employment Relations Commission. Stuart D. Levitan was appointed to serve as hearing examiner and conducted a hearing on December 20, 2013. Following the completion of the hearing and the submissions of written arguments, the Commission designated James R. Scott, Commission Chairman, as the examiner with final authority pursuant to §§ 227.46(1) and (3)(a), Stats. Chairman Scott subsequently consulted with Examiner Levitan regarding his credibility assessments and now issues the following:

FINDINGS OF FACT

1. Appellant James Riendeau was employed as a IS Computer Services Senior with the University of Wisconsin School of Medicine and Public Health, Department of Medical Microbiology and Immunology, in 2012.

2. On April 12, 2012, Riendeau was in the office of his supervisor, Tracy Wiklund, performing work on her computer. In the course of conversation, Riendeau made statements that Wiklund reasonably viewed as personally threatening to her.

3. Later that day, Wiklund emailed Riendeau and expressed her view that she was “scared” by his behavior and that he “crossed a line.”

4. In the course of the email exchange between Riendeau and Wiklund, Riendeau stated that he was angry and that “the prison or the grave aren’t any worse then [sic] the life I’m living.”

5. On April 13, 2012, Riendeau engaged in an angry outburst with a coworker after someone had inadvertently thrown out Riendeau’s lunch while cleaning the break room refrigerator. Riendeau screamed at the coworker and thrust his fists in the air. The coworker was fearful of her own safety. Riendeau acknowledged that he was “enraged.”

6. On May 4, 2012, Riendeau was discharged from his employment for violating work rules which generally prohibit threatening and intimidating conduct.

7. Following his discharge, Riendeau engaged in threatening behavior directed at University officials.

Based upon the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction over the appeal pursuant to §§ 230.44(1)(c), Stats.

2. There was just cause for the decision to discharge James Riendeau on May 4, 2012 from his position with the University of Wisconsin System.

Based upon the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER

That the University of Wisconsin Systems’ decision to discharge James Riendeau is affirmed and the appeal is dismissed.

Signed at the City of Madison, Wisconsin, this 7th day of April 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

MEMORANDUM ACCOMPANYING FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

There is no dispute that Riendeau uttered several statements to his supervisor which could be considered threatening generally and specifically as to her. In the course of general conversation, Riendeau stated “if I don’t have a car by the time I am 40 I am going to start my own bloody revolution.” His supervisor asked if he intended to hurt her to which he responded: “Sure, why not? You’re just the last spigot in the fountain of shit around here.” His supervisor was upset and sought to address her concerns the same day via email. Riendeau responded essentially by blaming the supervisor for his current financial problems and observed that “the prison or the grave aren’t any worse then [sic] the life I’m living.” R.106

The following day, April 13, 2012, Riendeau entered the lunchroom and discovered that someone (in the course of cleaning the refrigerator) had thrown away his lunch. He went into an angry red-faced tirade and screamed “what the fuck am I suppose to do for lunch now.” He was thrusting his fist into the air. R.107. The women in the lunchroom at the time of the outburst felt threatened. *Id.*

Subsequently, on April 16, 2012, Riendeau was placed on paid administrative leave and was arrested and charged with disorderly conduct in connection with events described above. Following an investigation, the University discharged Riendeau based upon work rules which prohibited employees from engaging in threatening conduct. The discharge was effective on May 4, 2012.

While admitting he engaged in the behavior described above and acknowledging that it was “wrong” and “inappropriate,” Riendeau asserts that his supervisor’s description of the events is exaggerated. In Riendeau’s view, what he did was not serious enough to warrant termination.

In my judgment, the conduct Riendeau engaged in on April 12 and 13, 2012, constitutes just cause for his discharge. Clearly, the University is warranted in taking threats of violence seriously. Riendeau does not acknowledge that concern and in his view his personal circumstances justify his behavior.

While I am satisfied that the pre-discharge conduct standing alone constitutes just cause for the discharge, some observation regarding later events is warranted. The examiner who conducted the hearing excluded testimony regarding post termination events.¹ Subsequently, however, the examiner admitted into evidence various documents reflecting a pattern of behavior engaged in by Riendeau post-discharge. Riendeau did not object to the admission although given ample opportunity to do so. In my judgment, the evidence of specific threats which were made within several months after the discharge should be admissible under § 904.04(2), Stats., as evidence that Riendeau intended his pre-termination conduct to be threatening and intimidating. The witnesses to the two incidents testified to their subjective view that they were threatened and intimidated by Riendeau’s behavior. Riendeau’s

¹ No offer of proof was made but it was apparent from the record that the testimony was moving in that direction.

post-discharge behavior supports an objective conclusion that he engaged in threatening and intimidating behavior while employed. The University's Exhibit 109, together with Riendeau's response Exhibit 110, clearly demonstrate that threatening and intimidating behavior post-discharge was a frequent occurrence.

On June 4, 2012, following the denial of his appeal at the second step in the grievance process, Riendeau sent an email to a University representative that stated *inter alia*:

“Just cause for discharge” is hardly a satisfying response. No chance you could expound on that just a little bit so I know if I should go on that suicidal rampage now or hold off for to see what OSER says?

University Ex.109, p.3. On July 3, 2012, Riendeau emailed Associate Dean of Students Kevin Helmkamp stating “... the day I got my termination letter, I ordered 5 clips, 3 boxes of bullets, and a holster for the clips,” and “[p]ersonally, I don't want to shoot a bunch of strangers, but what are my choices?” *Id.*

On July 5, 2012, Riendeau emailed a friend expressing his criticism of his supervisor, Tracy Wiklund, and added:

Oh, and I also own a gun and think there are definite limits to power. I've made everyone on campus, the madison police, and Tracy aware of what I think those limits are. Look for me in the news if they don't agree.

That same day, University of Wisconsin Police Officer Michael Eckhardt interviewed Riendeau following University complaints about his threats. During Eckhardt's interview, Riendeau stated “there is nothing you can do to change my mind,” and elaborated, “I'm going to fucking shoot up everyone and the cops are going to have to take me out.” *Id.*

The foregoing is merely a brief sample of an ever increasing pattern of bizarre behavior engaged in by Riendeau and documented in University Exhibits 109 and 110. There is simply no question in my mind that ample just cause existed to support this termination.

Signed at the City of Madison, Wisconsin, this 7th day of April 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman