

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JOHN POIRIER, Appellant,

vs.

DEPARTMENT OF CORRECTIONS, Respondent.

Case 251  
No. 72850  
PA(adv)-385

DECISION NO. 35026

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**Appearances:**

Troy Bauch, Field Representative, Wisconsin State Employees Union, 1190 Ruffedt Road, Cornell, Wisconsin, 54732, appearing on behalf of Appellant John Poirier.

Paeg Heckel, Labor Relations Specialist – Chief, Wisconsin Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin, 53707-7855, appearing on behalf of Respondent Department of Corrections.

**DECISION AND ORDER GRANTING MOTION TO DISMISS**

Appellant John Poirier was employed as a second-shift correctional officer at the Stanley (Wisconsin) Correctional Institution. Poirier was offered and accepted a third-shift position at the institution to begin on October 27, 2013. The move to third shift included a \$0.60 per hour shift differential. On October 23, 2013, the institution postponed the transfer pending an internal investigation concerning Poirier's relationship with a third-shift employee. The investigation was concluded some time later and, on December 11, 2013, Poirier moved to the third-shift position.

Poirier filed a grievance asserting that his base pay was in effect reduced because he lost the shift differential for approximately one and one-half months. The DOC has moved to dismiss arguing that the Commission has no jurisdiction because of the temporary delay in a shift transfer with the attendant loss of a shift differential. In response to the well-reasoned and supported motion, Poirier's non-lawyer advocate has submitted a one-page email response effectively conceding that the DOC's position is correct.<sup>1</sup>

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<sup>1</sup>Not content to concede defeat, Poirier's advocate then launches into a diatribe attacking the DOC and this Commission. Such behavior will not be tolerated. We have the inherent power to control non-lawyers who appear before us to represent state employees. Those who engage in utterly inappropriate behavior suffer the risk of

We grant the DOC's motion because, of course, it is correct. Our jurisdiction is limited and clearly defined in terms of the disciplinary matters we may review. They include "demotion, layoff, suspension, discharge or reduction in base pay." Obviously, a shift differential is not part of base pay. Here, the employee did not work the third shift for the month and one-half period in question and clearly was not entitled to the shift differential. The motion is granted and it is hereby:

**ORDERED**

Appellant John Poirier's appeal is dismissed.

Dated at Madison, Wisconsin, this 3rd day of June 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner

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potential ban from participation before this agency. This is not a public forum to vent frustration with us and that type of disrespectful behavior will not be permitted.