

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MARGARET SCHYVINCH, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0080

Case Type: PA

DECISION NO. 36103

Appearances:

Jim Parrett, Field Representative, AFSCME Wisconsin Council 32, N14436 - 17th Avenue, Necedah, Wisconsin, appearing on behalf of Appellant Margaret Schyvinch.

Amesia N. Xiong, Department of Administration, Office of the Secretary, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of State of Wisconsin Department of Corrections.

Margaret Schyvinch filed a grievance which was denied all through the various steps of the grievance procedure and ultimately appealed to the Wisconsin Employment Relations Commission. Schyvinch's employer, the State of Wisconsin Department of Corrections, has moved to dismiss the appeal based upon a lack of subject matter jurisdiction. The matter has been briefed and is now ripe for decision.

DECISION AND ORDER GRANTING MOTION TO DISMISS

Margaret Schyvinch, a teacher at the DOC's New Lisbon, Wisconsin, Correctional Institution, challenges the fact that the DOC will not remove prior disciplinary actions from her personnel file. The discipline takes the form of letters of reprimand issued in the past. The DOC has a work rule providing that "letters of discipline" will remain in personnel files unless removal is otherwise required by an agency or court or pursuant to a settlement agreement.

We note initially that it is well-settled that we lack jurisdiction over the review of letters of reprimand. Our ability to review disciplinary actions is limited to demotion, layoff,

suspension, discharge or reduction in base pay for which we may evaluate for purposes of determining whether just cause exists for the enumerated personnel transactions. § 230.44(1)(c), Stats. We are not a court of general jurisdiction nor do we serve as a super-personnel department for the State of Wisconsin. The DOC and any other state agency is free to decide how long they wish to retain various personnel records. The wisdom of such decision is beyond our purview.

Schvynich is correct when she argues that the DOC has the discretion to decide how long they wish to retain such records. We, however, do not have the ability to review that exercise of discretion. The wisdom of the rule and its consequences are for DOC to examine not this body. Accordingly, we enter the following:

ORDER

The motion to dismiss is granted and the appeal is dismissed.

Signed at the City of Madison, Wisconsin, this 2nd day of November 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner