

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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PAUL TAYLOR, Appellant,

vs.

STATE OF WISCONSIN, DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0085

Case Type: PA

DECISION NO. 36157

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**Appearances:**

Paul Taylor, 4238 N. Woodburn Street, Shorewood, Wisconsin, appearing on his own behalf.

Mark Herman, Attorney, Department of Administration, Office of the Secretary, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of State of Wisconsin, Department of Corrections.

**DECISION AND ORDER**

On July 22, 2015, Paul Taylor filed a timely appeal with the Wisconsin Employment Relations Commission pursuant to § 230.44(1)(c), Stats., asserting his ten-day suspension by the State of Wisconsin, Department of Corrections was not for just cause. Hearing on the matter was held on November 24, 2015, in Milwaukee, Wisconsin, before Examiner Raleigh Jones. The parties made oral argument at the conclusion of the hearing.

On January 25, 2016, Examiner Jones issued a proposed decision affirming the suspension. No objections to the proposed decision were filed and the matter became ripe for Commission action on February 25, 2016.

Being fully advised in the premises, the Commission makes and issues the following:

### **FINDINGS OF FACT**

1. Paul Taylor is employed by the Department of Corrections (DOC) as a Correctional Officer at the Milwaukee Secure Detention Facility (MSDF) and had permanent status in class at the time of his suspension.

2. The DOC is a State of Wisconsin administrative agency which operates prisons and correctional facilities. The correctional facility involved in this case – MSDF – is a medium security facility in downtown Milwaukee, Wisconsin.

3. On November 19, 2014, Taylor was tasked by his supervisor with making a medical trip with an inmate. Taylor refused the assignment and did not make the trip. The supervisor also tasked Taylor with showing a new officer how to put restraints on an inmate making a medical trip. Taylor refused that assignment. Taylor then left the area without telling his supervisor where he was going.

4. DOC suspended Taylor for ten days for the conduct described in Finding of Fact 3. Later, DOC reduced the length of his suspension to five days.

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 to review this matter pursuant to § 230.44(1)(c), Stats.

2. The State of Wisconsin, Department of Corrections had just cause within the meaning of § 230.34(1)(a), Stats. to suspend Paul Taylor.

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

### **ORDER**

The five-day suspension of Paul Taylor by the State of Wisconsin, Department of Corrections is affirmed.

Signed at the City of Madison, Wisconsin, this 22nd day of March 2016.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner

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James J. Daley, Commissioner

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**

Section 230.34(1)(a), Stats., provides in pertinent part the following as to certain employees of the State of Wisconsin:

An employee with permanent status in class ... may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.

Section 230.44(1)(c), Stats., provides that a State employee with permanent status in class:

... may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission ... if the appeal alleges that the decision was not based on just cause.

Paul Taylor had permanent status in class at the time of his suspension and his appeal alleges that the suspension was not based on just cause.

The State has the burden of proof to establish that the employee was guilty of the misconduct and whether the misconduct constitutes just cause for the discipline imposed. *Reinke v Personnel Board*, 53 Wis.2d 123 (1971); *Safransky v Personnel Board*, 62 Wis.2d 464 (1974).

Here, the State met its burden of proof as to Taylor's suspension.

As reflected in Finding of Fact 3, we find that Taylor committed misconduct when he refused to comply with two supervisory directives. This was insubordinate behavior that clearly constituted just cause for the suspension received.

Signed at the City of Madison, Wisconsin, this 22nd day of March 2016.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner

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James J. Daley, Commissioner