

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SCOTT HANSEN, Appellant,

vs.

STATE OF WISCONSIN, DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0106

Case Type: PA

DECISION NO. 36412

Appearances:

Sean Daley, AFSCME Wisconsin Council 32, P.O. Box 19, Ashippun, Wisconsin, appearing on behalf of Scott Hansen.

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

DECISION AND ORDER

On November 19, 2015, Appellant Scott Hansen filed an appeal with the Wisconsin Employment Relations Commission, pursuant to § 230.44(1)(c), Stats., asserting that he had been suspended for three days without just cause by the State of Wisconsin, Department of Corrections. On July 13, 2016, the parties filed a Stipulation of Facts and Stipulated Exhibits with the Commission. The parties also filed written arguments, the last of which was received on July 13, 2016. The Commission assigned the appeal to Examiner Karl R. Hanson.

On August 26, 2016, Examiner Hanson issued a proposed decision dismissing the appeal. No objections were filed and the matter became ripe for Commission consideration on September 27, 2016.

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

FINDINGS OF FACT

1. Scott Hansen is employed by the State of Wisconsin, Department of Corrections and had permanent status in class at the time he was disciplined.

2. On May 24, 2015, Hansen challenged another DOC employee to “finish [a verbal altercation] in the parking lot,” after the other employee elbowed him during a verbal confrontation that Hansen started.

3. On September 3, 2015, DOC suspended Hansen for three days, for failing to exercise good judgment, verbally threatening and intimidating another employee, and using profane or abusive language, in violation of DOC’s work rules.

Based on 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 Scott Hansen for three days.

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

ORDER

The appeal is dismissed.

Dated at Madison, Wisconsin, this 17th day of October 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

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.

Scott Hansen had permanent status in class at the time of his discipline and his appeal alleges that the discipline was not based on just cause.

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

The parties stipulate that on May 24, 2015, Correctional Officers Scott Hansen and Jared Franke got into a verbal altercation at work. Events began when Hansen questioned Franke about his duties in a way that implied Hansen was dissatisfied that he, instead of Franke, had to perform a certain task.

Franke eventually walked away and in doing so hit Hansen's arm with his own elbow. Hansen then challenged Franke "to finish this in the parking lot." Franke submitted an incident report (minimizing his own role in the events and omitting mention of the elbow check) which started an investigation.

Hansen and Franke did not have any confrontations with each other before this event and have not had any since. Both requested some form of intervention to discuss their relationship, but DOC declined to engage in such a conflict resolution effort. Instead, DOC punished the two officers for their respective roles in the May 24, 2015 incident.

DOC had just cause to suspend Hansen for three days.

Hansen committed misconduct by starting a verbal altercation with Franke. Once Franke took the bait and continued the argument, Hansen could have walked away from it. Instead, he continued it and after Franke delivered an elbow check to Hansen's arm, Hansen challenged Franke to a fight in the parking lot.

Despite our awareness that prison is a “PG-13” work environment (as pointed out by Hansen’s representative), Hansen’s conduct warranted discipline. DOC is justified in expecting its employees to not start, engage in, or escalate verbal confrontations with coworkers. Hansen previously received a one-day suspension. A three-day suspension after this incident was not excessive discipline.

Dated at Madison, Wisconsin, this 17th day of October 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner