

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LUCINDA CHAMPION, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0052

Case Type: PA

DECISION NO. 37462

Appearances:

Lucinda Champion, 375 Bayley Avenue, Platteville, Wisconsin, appearing on her own behalf.

Anfin Jaw, Attorney, Department of Administration, Division of Legal Services. 201 East Wilson, Tenth Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Health Services.

DECISION AND ORDER

On April 11, 2018, Lucinda Champion filed an appeal with the Wisconsin Employment Relations Commission asserting she had been suspended for three days without just cause by the State of Wisconsin Department of Health Services. The appeal was assigned to Examiner Raleigh Jones. A hearing was held on June 6, 2018 in Madison, Wisconsin, and the parties made oral argument at the hearing's conclusion.

On June 26, 2018, Examiner Raleigh Jones issued a Proposed Decision and Order affirming the State of Wisconsin Department of Health Services' three-day suspension of Lucinda Champion. No objections were filed and the matter became ripe for Commission consideration on July 3, 2018.

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

FINDINGS OF FACT

1. Lucinda Champion is employed as a Purchasing Agent-Senior by the State of Wisconsin Department of Health Services (DHS) and had permanent status in class at the time of her suspension.

2. In July 2017, Champion received a formal letter of expectation from DHS for, among other matters, “refusals to follow directions from management on multiple occasions”

3. On December 19, 2017, Champion’s supervisor, Matt Limoges, asked Champion to send out a certain email that day. The next morning, Limoges asked Champion if she had sent the email yet to which Champion responded: “I don’t have a response yet. How long would you like me to wait?” When Champion made that reply, she had not yet sent the email in question.

4. By giving the impression that the email task was completed when it was not, Champion did not provide truthful and accurate information to her supervisor.

5. Champion was suspended for three days for doing that.

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 Health Services had just cause, within the meaning of § 230.34(1)(a), Stats., to suspend Lucinda Champion 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 three-day suspension of Lucinda Champion by the State of Wisconsin Department of Health Services is affirmed.

Signed at the City of Madison, Wisconsin, this 24th day of July, 2018.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

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.

Lucinda Champion had permanent status in class at the time of her suspension and her appeal alleges that the suspension was not based on just cause.

The State has the burden of proof to establish that Champion 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).

Champion was suspended for the written response she gave to her supervisor when he asked if a certain email had been sent out. Champion's response gave the impression that the email had been sent, when it had not yet been sent.

On December 19, 2017, Champion's supervisor (Matt Limoges) asked Champion to send out an email that he had drafted to her divisional contacts. This email ended as follows: "Please send this off today. Thank you." In asking Champion to perform this task, Limoges was not asking Champion to draft the text of the email because he had already done that. Thus, what he was essentially asking Champion to do was cut and paste the text that he had already drafted and put it in an email. The next morning, Limoges asked Champion if she had sent the email yet, to which Champion responded: "I don't have any response yet. How long would you like me to wait?" Limoges then asked Champion to send him the email that she had sent to her divisional contacts to which she replied: "one didn't get sent yesterday. ..."

Champion's response to Limoges gave the impression that the task was completed when it was not. While Champion did eventually send the email in question, that does not matter here.

Although this workplace dispute might seem small and petty, the record establishes that Champion's behavior in this instance was part of a continued pattern of her being less than forthcoming in her communication with her supervisor.

In July 2017, Champion received a formal letter of expectation for, among other matters, “refusals to follow directions from management on multiple occasions” Thus, she has previously been warned about the need to follow management directives.

On December 12, 2017, Champion received a one-day suspension for providing a customer with a blind copy of an email she sent to a DHS manager. The Commission upheld that discipline in *Champion v. DHS*, Dec. No. 37435 (05/2018).

It was in that context that the instant matter occurred. While Champion felt that she was not intentionally deceitful in her email response, DHS disagreed and concluded that her email response was part of a pattern of deceitful emails by Champion to her supervisor. As was its right, DHS decided not to overlook the incident. Employers have the right to expect their employees to be truthful and honest with their supervisors. Here Champion was not. That constituted workplace misconduct.

As to the level of discipline which DHS imposed here (a three-day suspension), a three-day suspension follows a one-day suspension in the DHS progressive disciplinary “schedule.” Since that was the discipline imposed here, it was not excessive. Accordingly, the three-day suspension is affirmed.

Signed at the City of Madison, Wisconsin, this 24th day of July, 2018.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman