

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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BRIDGET RINK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0247

Case Type: PA

DECISION NO. 37471

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**Appearances:**

Paul Maki, W7071 North Road, Mauston, Wisconsin, appearing on behalf of Bridget Rink.

Anfin Jaw, 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 April 27, 2018, Bridget Rink filed an appeal with the Wisconsin Employment Relations Commission asserting she had been suspended for one day without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Examiner Peter G. Davis. A hearing was held on June 20, 2018, in New Lisbon, Wisconsin, and the parties filed written argument on June 22, 2018.

On July 19, 2018, Examiner Davis issued a Proposed Decision and Order modifying the suspension to a letter of expectation. No objections were filed by the parties and the matter became ripe for Commission consideration on July 25, 2018.

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

**FINDINGS OF FACT**

1. Bridget Rink is employed as a Nurse Clinician 2 by the State of Wisconsin Department of Corrections (DOC) at the New Lisbon Correctional Institution and had permanent status in class at the time of her suspension.

2. In November 2017, Rink became aware that some non-narcotic medication was missing and that the co-workers who first became aware of the issue had a plan in place to determine why the medication was missing.

3. Rink subsequently received a one-day suspension for failing to report the medication was missing and for her role in and knowledge of the co-workers' plan to determine why the medication was missing.

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 did not have just cause, within the meaning of § 230.34(1)(a), Stats., to suspend Bridget Rink for one day.

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

### **ORDER**

The one-day suspension of Bridget Rink by the State of Wisconsin Department of Corrections is modified to a letter of expectation regarding her role in and knowledge of the co-workers' plan to conduct an investigation. This decision shall serve as the letter of expectation and shall be placed in Rink's personnel file.

Signed at the City of Madison, Wisconsin, this 9th day of August, 2018.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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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.

Bridget Rink 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 Rink 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).

A licensed practical nurse (LPN) co-worker of Rink's discovered that some medication was missing and reported it to the Charge Nurse. Rink then heard those two co-workers talking about the missing medication and became part of a plan to determine why the medication was missing. Shortly thereafter, the HSU Manager overheard Rink and a co-worker talking about the plan and subsequently confronted the three employees. Rink and her two co-workers were subsequently disciplined for failing to report the missing medication and for deciding to conduct their own investigation as to why the medication was missing.

The medication reporting policy relied upon by the State (#500.80.16) provides in pertinent part:

D. The HSU staff member who discovers the medication occurrence or to whom the incident/occurrence was reported shall complete the DOC-3340-Medication Occurrence Report and shall gather and attach the necessary documentation related to the occurrence.

E. The HSU Manager shall be notified of all medication occurrences.

At least for the purposes of this proceeding, the State asserts that the obligations created by the above-quoted policy provisions apply to any and all employees who become aware of a medication occurrence – not just the employee who discovers the occurrence or to whom the

occurrence was reported. This State assertion is at odds with the plain language of the policy itself, common sense, and the State's past practice as to how the policy has been applied. Instead, it is apparent that the employee who discovers the occurrence (in this instance the LPN – not Rink) or to whom the occurrence was reported (in this instance the Charge Nurse – not Rink) have reporting and documentation obligations. Therefore, the Commission concludes that Rink did not violate DOC Policy # 500.80.16.

However, the evidence does establish that Rink was a participant in the co-workers' devised plan to determine why the medication was missing. It is apparent that judgments in the workplace as to whether and how to investigate a potential problem are to be made by management – not by employees.

Viewing the record as a whole, the Commission concludes that the primary basis for the suspension was the alleged violation of DOC Policy # 500.80.16. Because it has been concluded that Rink did not violate that policy, the suspension cannot be affirmed. However, in acknowledgment of Rink's secondary misconduct regarding the co-workers' devised plan, the suspension has been modified to a letter of expectation.

Signed at the City of Madison, Wisconsin, this 9th day of August, 2018.

## **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman