

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

---

LYNN DOBBERT, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0254

Case Type: PA

DECISION NO. 37478

---

**Appearances:**

David Hulce, 120 Nelson Valley Road, Camp Douglas, Wisconsin, appearing on behalf of Lynn Dobbert.

Anfin Jaw and Cara Larson, Attorneys, 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 June 22, 2018, Lynn Dobbert 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 Corrections. The appeal was assigned to Examiner Raleigh Jones. A hearing was held on July 11, 2018, in New Lisbon, Wisconsin, and the parties made oral argument at the hearing's conclusion.

On August 8, 2018, Examiner Raleigh Jones issued a Proposed Decision and Order affirming the State of Wisconsin Department of Corrections' three-day suspension of Lynn Dobbert. No objections were filed and the matter became ripe for Commission consideration on August 14, 2018.

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

**FINDINGS OF FACT**

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

2. In 2017 and 2018, Dobbert engaged in behaviors which created a hostile work environment for the new Nurse Clinician 4 in the Health Services Unit (HSU).

3. Dobbert 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 Corrections had just cause, within the meaning of § 230.34(1)(a), Stats., to suspend Lynn Dobbert 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 Lynn Dobbert by the State of Wisconsin Department of Corrections is affirmed.

Dated at Madison, Wisconsin, this 22nd day of August, 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.

Lynn Dobbert 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 Dobbert 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).

Dobbert was suspended for engaging in behaviors which created a hostile work environment for the new Nurse Clinician 4 in the HSU.

Dobbert and coworker Bridget Rink had longstanding workplace disputes with HSU supervisor Candace Warner. Because of those longstanding disputes, the employees who worked in their department came to be aligned in two different camps; there was the Rink/Dobbert camp and the Warner camp.

In 2017, management at the NLCI decided to create a new position in the HSU, that of Nurse Clinician 4 (hereinafter NC4). This decision was controversial from the beginning, with some employees thinking that the position was unnecessary.

After the NC4 position was posted, both Dobbert and Rink applied for it. Neither got the position. Dobbert was granted an interview for the job, but Rink was not. The interview panel that interviewed the three finalists was made up of Warner and the deputy warden. This interview panel did not make the ultimate hiring decision; the warden did. The NC4 position was ultimately offered to Jamie Gohde after another candidate withdrew. Gohde was not an employee at NLCI at the time she was hired.

This decision to hire an external candidate, and not award the position to either Dobbert or Rink, was very unpopular within the department. This hiring decision fed the narrative within the Rink/Dobbert group of employees in the department that Warner had manipulated the interview process so that her favored candidate (Gohde) got the job. There was also speculation in the Rink/Dobbert camp that Gohde would be Warner's replacement as the HSU supervisor when Warner retired.

After Gohde was hired but before she had even started her job at NLCI, Dobbert and Rink met with the HR director at NLCI (Tonia Schumann) and complained about Gohde's hiring and Warner. Specifically, Dobbert and Rink told Schumann that they believed Warner had manipulated the interview process so that Gohde got the NC4 job. Schumann unsuccessfully tried to disabuse them of that notion and said that the interview process had not been manipulated to favor Gohde over the internal candidates. Dobbert and Rink also indicated they thought Gohde would be Warner's replacement as the HSU supervisor when Warner retired. Dobbert and Rink also said that Gohde should not have been hired because she did not pass probation at her last job at another DOC institution. Building on all of the foregoing, Dobbert and Rink told Schumann that they were not going to help or support Gohde after she started working in the department. At that point, Schumann made it clear to Dobbert and Rink that she expected them to be respectful, supportive, and professional toward Gohde after she came aboard; that they were to train Gohde and work together with her; and, as Schumann put it, they were to give Gohde a fair chance.

That did not happen. Beginning on Gohde's first day on the job (September 18, 2017) Dobbert and Rink engaged in the following conduct toward Gohde: they shunned and isolated her; they would not speak to her; they were openly hostile toward her and told coworkers in the HSU they could not stand her; they undermined her to coworkers and harassed her; they excluded her from workplace discussions; they ignored her questions; they did not help Gohde learn her new job; they would not tell her what work needed to be done in the department; and they left work on Gohde's desk with no explanation of what needed to be done with it. They also verbalized not wanting to help and/or train Gohde and they told other HSU staff they also should refuse to help Gohde and let her "do it herself." Dobbert and Rink also spread rumors and gossip about how Gohde got the NC4 job, about Gohde's relationship with Warner, and about Gohde's previous employment at another DOC institution. One time during a staff meeting, Warner brought up the DOC policy on harassment and Dobbert said to Gohde: "welcome to being a charge nurse; you'd better get used to it."

Collectively, these actions by Dobbert and Rink toward Gohde made the tension in the HSU palpable and negatively impacted the HSU.

Gohde was obviously frustrated by how Dobbert and Rink treated her. Since they would not talk to her, it was difficult for her to do her job properly. Gohde discussed how Dobbert and Rink treated her with a half dozen of her superiors. However, the harassment referenced above did not change or diminish over time; instead, it increased. Dobbert's and Rink's harassment of Gohde ultimately caused Gohde to quit her job at NLCI on April 5, 2018, after about six months of employment.

The Commission has no trouble concluding that Dobbert's conduct toward Gohde crossed the line of acceptable workplace conduct. Simply put, Dobbert's conduct toward Gohde was unconscionable and inexcusable. It should not have occurred. DOC has a legal obligation to maintain a harassment-free workplace. To that end, it has adopted a work rule that proscribes bullying, harassment, and creating a hostile work environment. Here, Dobbert violated that work rule by her conduct toward Gohde. As a result, DOC had just cause to discipline her.

With regard to the level of discipline imposed here (i.e. a three-day suspension), the record shows that Dobbert received a one-day suspension earlier this year. Under DOC's progressive

disciplinary “schedule,” a three-day suspension follows a one-day suspension. Since that was the discipline imposed here, it was not excessive. Accordingly, the three-day suspension is affirmed.

Dated at Madison, Wisconsin, this 22nd day of August, 2018.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

---

James J. Daley, Chairman