

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BRIDGET RINK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0253

Case Type: PA

DECISION NO. 37479

Appearances:

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

Anfin Jaw and Cara Larson, 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 18, 2018, Bridget Rink 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 Bridget Rink. 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. Bridget Rink 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, Rink engaged in behaviors which created a hostile work environment for the new Nurse Clinician 4 in the Health Services Unit (HSU).

3. Rink 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 Bridget Rink 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 Bridget Rink by the State of Wisconsin Department of Corrections is affirmed.

Signed 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.

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).

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

Rink and coworker Lynn Dobbert 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 Rink and Dobbert 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 Rink or Dobbert, 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, Rink and Dobbert met with the HR director at NLCI (Tonia Schumann) and complained about Gohde's hiring and Warner. Specifically, Rink and Dobbert 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. Rink and Dobbert also indicated they thought Gohde would be Warner's replacement as the HSU supervisor when Warner retired. Rink and Dobbert 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, Rink and Dobbert told Schumann that they were not going to help or support Gohde after she started working in the department. Rink also said that the security staff was not going to support Gohde either because they were mad about the hiring decision and that Dobbert didn't get the job. At that point, Schumann made it clear to Rink and Dobbert 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) Rink and Dobbert 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." Rink and Dobbert 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. Rink was identified by HSU coworkers as the "ring leader" and "instigator" who pressured them to treat Gohde badly, isolate and ignore her, and take sides against Gohde.

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

Gohde was obviously frustrated by how Rink and Dobbert treated her. Since they would not talk to her, it was difficult for her to do her job properly. Gohde discussed how Rink and Dobbert treated her with a half dozen of her superiors. However, the harassment referenced above did not change or diminish over time; instead, it increased. Rink's and Dobbert'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 Rink's conduct toward Gohde crossed the line of acceptable workplace conduct. Simply put, Rink'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, Rink 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 Rink received a one-day suspension earlier this year. Even though that decision overturned her discipline, the Commission relies on the fact that Rink was identified as the “ring leader” and “instigator” of Gohde’s harassment. In our view, that fact alone is sufficient to justify the level of discipline imposed. Accordingly, the Commission finds that a three-day suspension was not excessive.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman