

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

RYAN BLOUNT, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0589

Case Type: PA

DECISION NO. 39961

Appearances:

Ryan Blount, 700 Cumberland Court, Deforest, Wisconsin, appearing on his own behalf.

Nicole Porter, Attorney, Department of Administration, 101 East 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 21, 2023, Ryan Blount filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for one day without just cause by the State of Wisconsin Department of Corrections (DOC). The matter was assigned to Commission Examiner Anfin Jaw.

On August 23, 2023, the Appellant waived his right to have a contested hearing. The parties filed a joint stipulation of facts and exhibits on August 23, 2023. The parties filed written closing arguments on September 14, 2023. Neither party filed a response by the designated deadline of September 18, 2023.

On September 20, 2023, Examiner Jaw issued a Proposed Decision and Order affirming the one-day suspension of Ryan Blount by the DOC. Neither party filed objections by the designated deadline of September 25, 2023.

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

FINDINGS OF FACT

1. Ryan Blount (Blount) is employed by the State of Wisconsin Department of Corrections (DOC) as the Security Director at Columbia Correctional Institution (CCI) and had permanent status in class at the time of his one-day suspension.

2. The DOC is a state agency responsible for the operation of various corrections facilities including CCI, a maximum-security facility located in Portage, Wisconsin.

3. In January 2023, Blount failed to follow agency policies on proper key control and security responsibilities and was negligent in his duties as the Security Director when he failed to take proper action related to a missing set of keys from CCI.

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 appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Corrections had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Ryan Blount 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 Ryan Blount by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 5th day of October 2023.

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.

Ryan Blount had permanent status in class at the time of his suspension and his appeal alleges that the suspension was not based on just cause. The State has the burden of proof to establish that Blount 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 facts are not in dispute. On January 16, 2023, Blount received a phone call from Captain Anthony Bonfiglio informing him that there was a missing key ring from the Restrictive Housing Unit (RHU) at CCI. Blount instructed Capt. Bonfiglio to follow protocol and contact all staff who had worked the previous shift, as staff sometimes mistakenly take institution keys home. Capt. Bonfiglio followed up with staff and searched the officers' bubble for the keys to no avail. An incident report (IR) was created on January 16, 2023, which indicated "restraint key set (#6)," containing five keys assigned to RHU, were not accounted for. Blount was provided the IR on January 16, 2023, and then forwarded the IR for a possible follow up investigation on January 17, 2023. Blount carelessly thought it was only one key that was missing, and not a full set, as Blount had reported a single restraint key missing to the Warden and Deputy Warden at CCI.

The missing set included a key for restraints or cuffs, a master lock 545 key, which is the master padlock for the entire institution, and a travel restraint key. The set would provide the ability to remove all restraints from inmates at the institution and to open any padlock in the institution.

Blount went on vacation on January 19, 2023, and returned on January 30, 2023. Prior to going on vacation, Blount failed to provide any updates or briefings to supervisors, including the RHU manager, as well as Captain Kevin Pitzen, who served as the interim Security Director while Blount was on vacation. The keys remained missing. Additionally, prior to going on vacation, Blount failed to provide any information to the Warden or Deputy Warden on the status of the keys. Coincidentally, the keys were located and returned to CCI on January 30, the day Blount returned to work from vacation. An LTE who worked on January 14-15, 2023, had accidentally taken the keys home.

Given the significant security risk to the institution and Blount's failure to take proper action as the Security Director in informing security supervisors or update the Warden or Deputy Warden about the missing set of keys, misconduct has been established.

Nevertheless, Blount asserts that his discipline should be rejected because of a couple of reasons. First, Blount claims that the officers who failed to take inventory of the keys and the LTE that removed the keys from the institution only received a non-disciplinary Letter of Expectation (LOE). Blount believes he should also receive an LOE. The Commission rejects this argument. As the Security Director at CCI, Blount holds one of the most senior-ranking supervisory positions within the institution. It has long been recognized that supervisors are held to a higher standard than their non-supervisory counterparts. DOC persuasively points out that the Security Director bears the highest level of responsibility with respect to ensuring that keys are properly maintained, and responding effectively and efficiently when a security concern arises. Thus, DOC is justified in holding Blount more accountable than the officers or LTE involved in the incident.

Second, Blount argues that his 24 years of discipline-free service to the DOC should be a mitigating factor to consider. While his years of service are commendable, the Commission has previously held that “[w]henver an employee has work duties that they do not adequately perform, they can fairly be called to task for it by their employer.” *See Thompson v. DOC*, Dec. No. 38925 (WERC, 04/21). Blount was clearly negligent in his responsibilities as the Security Director, and even if this was a one-off, the significant security risk created by his negligence rises to a level worthy of formal discipline.

Finally, Blount contends that the Commission should consider DOC’s Disciplinary Action Routing form, showing that CCI Warden Fuchs, Employment Relations Kelli Brown, and the Assistant Division Administrator Paul Kemper, all recommended an LOE. The form also shows Division Administrator Sarah Cooper and the DOC Secretary’s Office supporting progression or a one-day suspension. The Secretary’s Office is the final decision maker. Secretary Kevin Carr is the head of the agency and the appointing authority. As such, he is empowered to review disciplinary matters within the department and decide what level of discipline is imposed. Here, Blount does not get to pick and choose which DOC official gets to impose his discipline. That call is up to DOC.

Under the circumstances, the Commission finds that a one-day suspension was not an excessive punishment for Blount’s misconduct. In so finding, it is expressly noted that a one-day suspension is the first step in the disciplinary progression schedule.

Given the foregoing, it is concluded that there was just cause for Blount’s one-day suspension, and it is therefore affirmed.

Issued at Madison, Wisconsin, this 5th day of October 2023.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman