

**OFFICIAL.**

STATE OF WISCONSIN

BOARD OF PERSONNEL

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RICHARD PAWELSKI, \*\*

Appellant, \*\*

vs. \*\*

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

PHILIP LERMAN, CHAIRMAN \*\*

DEPARTMENT OF INDUSTRY, \*\*  
LABOR AND HUMAN RELATIONS,

Respondent. \*\*

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The hearing in this matter was conducted before the State Personnel Board on May 30, 1973, at the Wisconsin State Employment Services office at 618 Sixth Street, Racine, Wisconsin. The appellant appeared personally and was not represented by counsel. The respondent appeared by David A. Pearson, Attorney, Department of Industry, Labor and Human Relations. It was stipulated by and between the parties that Board member John Serpe act in the capacity as a hearing officer for this hearing and that pursuant to Board rule he would review the transcript of the testimony and all admitted exhibits and then file his written recommendation to the other members of the Board with a majority to concur and approve of such recommendation. Based upon such an examination, the transcript and review of all admitted exhibits, the following Findings, Opinion, and Order is recommended to the full Board to constitute its disposition thereof and such recommendation is that the following Findings be issued by the Board.

FINDINGS OF FACT

1. That Richard Pawelski was a permanent classified employe. He was employed in the Racine District Office of the Wisconsin State Employment Services and served as a coach of a Work Incentive (WIN) team.

2. That the appellant's duty as coach was to work as a team member to assist and train welfare recipients to acquire basic skills to qualify for permanent, gainful employment.

3. The appellant's immediate supervisor was John Toutenhoofd and his ultimate supervisor was Elmer Kenitz, who was the District Director of the Racine office.

4. On January 28, 1972, Mr. Kenitz conferred with the appellant regarding his unacceptable attendance record. At the time of such conference the appellant was given a copy of a letter as well as a copy of the department's Work Rules. The subject matter of this conference was the appellant's failure to notify the office when he was unable to come into work and that he should make special efforts to avoid being tardy in reporting for work and that he should make reasonable efforts as a part of his team to be present each day on the job to accomplish the goals of the WIN Program.

5. The Work Rules submitted to the appellant prohibited failing to report to work promptly at the starting time of the office hours, and leaving prior to the scheduled quitting time as well as unexcused and excessive absenteeism. Failure to notify the supervisor promptly of unanticipated tardiness or absences was likewise a prohibited practice. The letter outlining this conference was considered by the appellant's supervisor as a reprimand and a copy was placed in the appellant's personnel file.

6. The performance evaluation report concurred in by the appellant on February 14, 1972, acknowledges the need for the appellant to pay particular attention to his attendance on the job as well as his inclination to be unduly tardy in reporting for work. The appellant, during the period in question, had used up all his approved leave with pay in unscheduled and unapproved absences, which necessitated granting the appellant five days leave without pay during December of 1971.

7. On May 17, 1972, Mr. Kenitz forwarded to the office of the District Administrator a memorandum outlining periods of appellant's absences and tardiness and recommended that his conduct be evaluated and that the recommended termination of the appellant's employment be approved by the appointing authority.

8. On June 8, 1972, a letter was prepared by Mr. Kenitz and signed and approved by F. J. Walsh, District Administrator, and Philip E. Lerman,

Chairman of the Department, notifying the appellant that he was suspended without pay for the period June 11-24, 1972. This letter noted the cause for such suspension being his continued record of tardiness and absenteeism and outlined the specific instances thereof from October, 1971, to May, 1972.

9. These periods of absences and tardiness were substantiated by concurrent departmental records, and as the result of such conduct, a suspension for the period indicated was imposed. Thereafter, on June 14 the appellant timely appealed this suspension.

#### OPINION

The record of this hearing indicates that the appellant did not refute the tardiness and absences referred to in the letter of discipline and admitted that they did, in fact, occur. His explanation for this conduct was attributed to the fact that he was staying at the Dominican College, attending college classes, and living in a college dormitory in addition to working, and that he experienced considerable difficulty in reporting for work, occasioned by an influenza attack in 1971, an automobile accident in March of 1972, a stroke which was suffered by his mother, and occasional car trouble which required hitchhiking to work. The appellant contended that he did on occasion call in when he was unable to report for work and he likewise admitted that there were other occasions when he did not conform to this required procedure.

It appears from the record that the work activities of the appellant were combined with others to constitute a team effort, to effect the desired results, and his unanticipated absences created severe hardship in achieving these goals. Likewise, a failure to notify fellow team members as well as the supervisor of his inability to report for work further hampered these program efforts. It was conceded by the respondent that there were occasional instances where he complied with accepted call-in procedure, but that his inclination towards excessive tardiness in reporting for work, as well as his

failure to co-operate with his fellow team members by his continued absence from the job, was sufficient misconduct to constitute proper cause for the disciplinary action imposed. The appellant's general attitude was a lack of concern for his job attendance and his necessity to comply with the report in procedures when he was not coming in to work. He established a callous disregard for the rules which necessitated the action taken by his appointing authority.

The Board having entered the above Findings of Fact and Opinion, enters the following:

CONCLUSIONS OF LAW

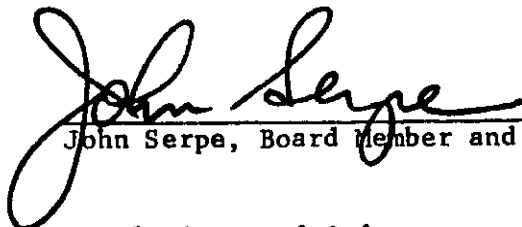
1. That the stated reasons indicated in the respondent's letter of termination are true and that they constitute just cause for the suspension of the appellant without pay for the period June 11-24, 1972.
2. That the respondent's action in imposing such discipline should be ratified and affirmed.

The Board having entered its Findings of Fact, Conclusions of Law, and Opinion, hereby makes and files the following Order:





1. That the appeal from such suspension be and the same is hereby dismissed on its merits, and the suspension of the appellant is hereby sustained.

Dated at Madison, Wisconsin this 13<sup>th</sup> day of August, 1973.

STATE PERSONNEL BOARD, BY

  
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 John Serpe, Board Member and Hearing Officer

We concur in the foregoing Findings, Conclusions and Order.

  
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