

STATE OF WISCONSIN BOARD OF PERSONNEL
 = = = = =
 MARY D. FAULKNER, **
Appellant, **
 vs. ** FINDINGS OF FACT
AND
CONCLUSIONS OF LAW
 JOHN WEAVER, PRESIDENT **
 UNIVERSITY OF WISCONSIN, **
Respondent. **
575 **
 = = = = =

Hearing was held in this matter by the State Personnel Board on March 12, 1973, in Room 1120-D, State Office Building, 1 West Wilson Street, Madison, with the following Board members present: William Ahrens, Chairman, Percy L. Julian, Jr., and Susan Steininger. Charles Brecher and John Serpe were absent. The appellant appeared personally and was represented by Milo G. Flaten, Attorney, 125 West Doty Street, Madison. The respondent, John Weaver, President, University of Wisconsin, appeared by Burton A. Wagner, Attorney, 1748 Van Hise Hall, University of Wisconsin, Madison. The Board having considered the transcript together with all exhibits enters the following:

FINDINGS OF FACT

1. The appellant, Mary Faulkner, commenced her employment as an Administrative Assistant 1, salary range 1-08, on October 13, 1969. She was employed in the University of Wisconsin System at the University Hospitals.
2. The appellant's position duties included the responsibility for administering the house staff program for residence and interns at the University Hospitals and to perform administrative and secretarial functions for the hospital and the members of the faculty medical staff at the University Hospitals.
3. For a period of time the appellant assisted in the housing assignments at the Harvey Street apartments. As the appellant's work load increased

she was subsequently relieved of this responsibility effective July 1, 1972.

4. The appellant had frequent day-to-day contact with administrative officers of the University Hospitals as well as the chairmen and members of the university faculty medical staff.

5. The appellant was initially supervised for a short period of time by James W. Varnum, who was an associate superintendent at the University Hospitals. After Mr. Varnum became superintendent at the hospital, the appellant's immediate supervisor was Mr. James Tinker, associate superintendent, who was responsible for the patient care activities at the University Hospitals. This supervision continued until Gary Mecklenburg was selected as assistant superintendent, and thereafter, Mr. Mecklenburg was responsible for the immediate supervision of the appellant.

6. After the appellant commenced her employment at the university in 1969 the appellant's work load progressively and substantially increased. On occasion, when required, Mr. Mecklenburg arranged for part-time student help as well as limited term clerical assistance to assist the appellant in the performance of her work duties and responsibilities.

7. On September 29 and October 1, 1971, the appellant prepared written memorandums which were unjustly critical of her supervisors and the hospital programs. On October 1, 1971, Mr. Mecklenburg held a conference with the appellant regarding these memorandums and counseled with the appellant for her failure to accept inherent work problems on a day-to-day basis. He prepared a written reprimand which was placed in her personnel file.

8. On or about May 1, 1972, the appellant was still responsible for the Harvey Street apartment leaseings, and she failed to comply with Mr. Mecklenburg's directive to assign and lease an apartment to an applicant, Dr. John Burson.

9. The appellant, in handling the application for housing, resisted Mr. Mecklenburg's authority to direct the appellant in the performance of her duties in apartment leasing, and during a conference held in Mr. Mecklenburg's office, severely criticized his supervising and his instructions to her and she became argumentative and vocally abusive.

10. As the result of this conduct, a second written reprimand was prepared on May 2, 1972, by Mr. Mecklenburg for the appellant's failure to follow his directives and for inappropriately questioning his authority, and becoming abusive and critical of his supervision.

11. As the appellant's work load increased, it was necessary for her to establish priorities in the performance of her varied position tasks. When delays occurred, the appellant structured a "delay notice" advising the affected personnel of the existence of the delay and the reasons therefor. These notices, as prepared by the appellant, were critical of her department and hospital policies and her supervisors. The use of this type of a notice was an exercise of poor judgment and was not authorized by her supervisor.

12. On or about October 12, 1972, the appellant prepared a written memorandum to Dr. Graham in the Department of Medicine, which was unduly critical of hospital policy and hospital personnel management.

13. The appellant, on October 13, 1972, prepared a written memorandum addressed to Mr. James Varnum, superintendent at University Hospitals, which severely criticized Mr. Mecklenburg, the appellant's supervisor. This memorandum questioned Mr. Mecklenburg's supervision and policy determination.

14. On numerous occasions during the time the appellant was supervised by Mr. Mecklenburg the appellant refused to discuss work related problems with her supervisor, was generally critical towards his supervision,

and exhibited a hostile and uncooperative attitude towards him.

15. The University Hospitals personnel practices do not require an annual performance evaluation, but the policy and directives as promulgated by the Personnel Department suggest that a continuing and ongoing program of job improvement be followed to identify areas in which an employe may improve his performance and to motivate the employe to do an ongoing, outstanding job.

16. The appellant's supervisor, Mr. Mecklenburg, did not provide written yearly performance evaluations of the appellant, however, his supervision of the appellant was an ongoing, day-to-day occurrence. The appellant was given much latitude to independently assign job priorities and to make independent determination as to work load priorities and constant, close supervision was therefor unnecessary.

17. The appellant was well aware in her day-to-day operation on the job of hospital policies and procedures which she was required to follow in the performance of her job duties. The appellant, however, progressively and on a recurring basis resisted attempts at supervision and supervisory directives and became insubordinate and openly hostile toward members of the hospital staff and medical school faculty. The appellant likewise failed to communicate on a continuing basis as required. On many occasions the appellant expressed an intention to leave her position at the hospital and seek a lateral transfer to some other employing agency.

18. On October 17, 1972, the appellant held a conference with her supervisor, Mr. Mecklenburg. During this conference many of the job problems which occurred between the parties were discussed including her October 12 letter to Dr. Graham and the October 13 memorandum to Mr. Varnum. As a result of this conference, a written memorandum dated October 18, 1972, was prepared by Mr. Mecklenburg indicating his determination to terminate the appellant's employment and outlined the reasons therein for such determination.

19. This memorandum was a letter to the appellant that termination was to be effective November 1, 1972. The appellant, by written notice dated November 8 and received November 9, appealed this action to the Personnel Board.

OPINION

The appellant has a responsible position as an administrative assistant in salary range 8 and was given much independent latitude and discretion in the day-to-day performance of her job duties. During the period of the appellant's employment at University Hospitals she was successively supervised by Mr. Varnum, Mr. Tinker, and Mr. Mecklenburg. As the result of the appellant's failure to communicate and cooperate with others, her working relationships were strained with the hospital management and medical faculty personnel. In many instances the appellant failed to secure the cooperation of other personnel whom she was required to communicate on a day-to-day basis. It is clear to the Board that the appellant's on-the-job conduct was of her own choosing, and despite two attempts to counsel with her, she continued to resist all supervision and suggestive corrective methods of solving her day-to-day problems so that in October of 1972 an intolerable working arrangement existed. As the result of the appellant's conduct on the job and her insubordination toward her superiors and her unwillingness to accept the job responsibilities, just cause existed for the termination of her employment.

We also note that the Rules of the Director of the Bureau of Personnel require the University to give employes in appellant's status an annual performance review. While we feel that in this single instance, the appellant was not prejudiced by the failure of the University to follow the Rules, we think that it has an obligation, as the State's largest employer, to adhere to proper procedures.

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

CONCLUSIONS OF LAW

1. That the allegations contained in the written notice of termination of October 18, 1972, are proven and constitute just cause for the termination of the appellant's employment and such termination action by the respondent employer be and the same is hereby ratified and affirmed.

2. That the appeal from the employer's termination of the appellant be and the same is hereby dismissed on its merits.

ORDER

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

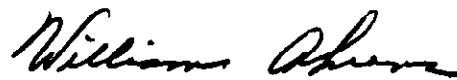
IT IS ORDERED:

1. That the action of the respondent employer in terminating the appellant's employment be and the same is hereby ratified and affirmed.

2. That this appeal be dismissed on its merits.

Dated at Madison, Wisconsin this 12th day of July, 1973.

STATE PERSONNEL BOARD, BY



William Ahrens, Chairman