

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 \*  
 LYLE JOHNSON, \*  
 \*  
 Appellant, \*  
 \*  
 v. \*  
 \*  
 Secretary, DEPARTMENT OF \*  
 TRANSPORTATION, \*  
 \*  
 Respondent. \*  
 \*  
 Case No. 81-256-PC \*  
 \*  
 \* \* \* \* \*

ORDER

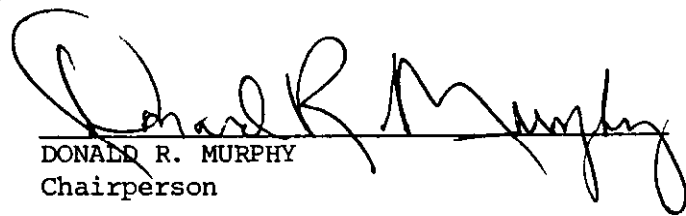
The Commission adopts the Proposed Decision and Order in this matter with the following modifications.

The second line on page three shall be removed and the following language inserted: "clarity of relevant rules or directives which causes".

The following sentence is added to Conclusion of Law 4: "(Pay does not include expenses incurred by the appellant as a result of the unauthorized trip.)"

Dated: Dec 4, 1981

STATE PERSONNEL COMMISSION

  
 DONALD R. MURPHY  
 Chairperson

ers

Parties

Lyle Johnson  
 Rt. 2, Box 284  
 Poynette, WI 53955

Owen Ayres  
 Secretary, DOT  
 RM B120, 4802 Sheboygan Ave.  
 Madison, WI 53702

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                   Appellant, \*  
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                   Respondent. \*  
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 Case No. 81-256-PC \*  
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PROPOSED  
 DECISION  
 AND  
 ORDER

This is an appeal of a two day suspension without pay.

FINDINGS OF FACT

1. Since March, 1971, the appellant has been employed by the respondent in a classified civil service position with permanent status. At the time of the incident at issue appellant worked at District 1, Division of Highways, as a Real Estate Agent. His duties involved land acquisitions for highways.

2. In the spring of 1981 appellant was completing the purchase of some property from people who moved to the Chicago area. Appellant wanted to complete the transaction in Illinois but knew he needed permission from his supervisor for any travel outside his district. He made the request and had several discussions about his proposed trip with his supervisors. On May 28, 1981, appellant's supervisor, upon directions of the next level supervisor, told appellant to find another way to confer with the seller, the trip was not authorized.

3. On May 29, 1981, the appellant, without authorization, made the trip to the seller's new home in Illinois. The following work day, June 1, 1981, appellant submitted a travel expense voucher containing a listing of expenses for the Illinois trip, which caused his supervisors to be aware of the unauthorized trip. By memorandum dated June 5, 1981 the appellant was notified, by his

immediate supervisor that his act of making the unauthorized out of state trip May 29, 1981 was insubordination in violation of work rule 1.1. The appellant was suspended two days, June 10 and 11, 1981 without pay. Travel expenses for the trip were denied. Prior to the suspension appellant had been employed by respondent approximately 10 years without being subject to any disciplinary action.

4. Appellant, knowingly, made the trip to Illinois without authorization, in direct contradiction of instructions received from his supervisor and in violation of respondent's work rule 1.1.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to hear this matter according to s.230.44(1)(c), Wis. Stats.

2. The respondent has the burden of proving there was just cause for imposing discipline upon the appellant and whether such imposed discipline was proper.

3. There was just cause for disciplining the appellant.

4. Appellant's two day suspension was excessive and should be modified to exclude any loss in pay.

<sup>u</sup>  
OPINION

It is the position of this Commission that while it is clear appellant was insubordinate, the particular level of discipline was not warranted in light of all the circumstances. Appellant had been employed with respondent for ten years and had an unblemished record. He received no personal gain or benefit from his act of insubordination, but suffered monetary loss for the unauthorized trip made for the benefit of respondent.

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It is for these reasons and testimony which brought into question the clarity of instructions given appellant not to take the trip, which causes this Commission to believe respondent's discipline was excessive.

ORDER

The disciplinary action imposed upon appellant by the respondent is modified and this matter is remanded to respondent for action in accordance with this decision.

Dated: \_\_\_\_\_, 1981

STATE PERSONNEL COMMISSION

DRM:ers

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DONALD R. MURPHY  
Chairperson

Parties

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