

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JAMES RAHMING, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0332

Case Type: PA

DECISION NO. 38312

Appearances:

James Rahming, N18W5345 Pierce Court, Cedarburg, Wisconsin, appearing on his own behalf.

Anfin Jaw, Department of Administration, 101 East Wilson St., 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On December 20, 2019, James Rahming filed an appeal with the Wisconsin Employment Relations Commission asserting he had been discharged without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Examiner Raleigh Jones. A hearing was held on February 3, 2020, in Racine, Wisconsin. The parties made oral arguments at the conclusion of the hearing.

On February 27, 2020, Examiner Jones issued Proposed Findings of Fact, Conclusions of Law and Order affirming the discharge. Rahming filed objection on March 3, 2020. The State did not file a response and the matter became ripe for Commission consideration on March 10, 2020.

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

FINDINGS OF FACT

1. James Rahming was employed as a correctional officer at the Racine Youthful Offender Correctional Facility (RYOCF) and had permanent status in class at the time of his discharge.

2. The Department of Corrections (DOC) is a state agency responsible for the operation of various correctional facilities, including the RYOFC located in Racine, Wisconsin.

3. Corrections officers are supposed to ensure the safety and security of inmates at their facility.

4. Rahming told a coworker that an inmate - who he identified by name - had snitched on him for giving property back to inmates. Rahming made this statement in a loud enough voice that coworkers nearby heard it. So did some inmates who were also nearby.

5. The inmate who Rahming named in Finding 4 was subsequently referred to as a snitch by other inmates. This caused him to fear for his safety. The inmate was subsequently transferred to another institution for his own safety.

6. DOC discharged Rahming for his actions referenced in Finding 4.

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 over this appeal 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 discharge James Rahming.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The discharge of James Rahming by the State of Wisconsin Department of Corrections is affirmed.

Issued at the City of Madison, Wisconsin, this 1st day of April, 2020.

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.

James Rahming had permanent status in class at the time of his discharge and his appeal alleges that his discharge was not based on just cause.

The State has the burden of proof to establish that Rahming 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).

In July 2019, certain items were confiscated from RYOFC inmates and placed in the property room. The next day, someone took those items out of the property room and returned them to inmates.

DOC commenced an investigation into how that had happened. During that investigation, an inmate identified Rahming as the staffer who had returned the confiscated items to inmates. Rahming subsequently learned that the inmate had named him as the staffer who did that.

Based on what happened next, it can be inferred that Rahming was displeased that he had been identified as the staffer who returned the confiscated items to inmates. That is because Rahming later told a co-worker that an inmate – who he identified by name – had snitched on him for giving property back, so he was going to have a talk with him (i.e. the inmate). Rahming made this statement in a loud enough voice that co-workers nearby heard it. They were not the only ones who heard this statement; some inmates who were nearby also heard it. Rahming admitted that he subsequently “spoke” with the inmate about the matter.

Afterwards, inmates at RYOFC referred to that inmate as a snitch. This caused him to fear for his safety. The inmate was later transferred to another institution for his own safety.

When Rahming was interviewed as part of the investigation, he denied that he was the staffer who had taken confiscated items out of the property room and returned them to inmates.

At the hearing, Rahming emphasized that DOC did not prove that he was the staffer who had taken confiscated items out of the property room and returned them to inmates. Rahming sees that as significant. However, the Commission need not determine herein whether Rahming was the staffer who took the confiscated items out of the property room and returned them to inmates. That is because Rahming was not disciplined for that reason. Instead, the disciplinary letter makes it clear that the reason Rahming was disciplined was because he identified the inmate who, as he put it in his own words, snitched on him. That being so, our sole focus herein is whether Rahming called an inmate a snitch in front of staff and inmates. While Rahming maintains that no inmates heard him call the inmate a snitch, the record establishes that some did.¹ Not surprisingly, the word then spread via the proverbial grapevine.

That was problematic for this reason: being labeled as a snitch in a prison can have deadly consequences. DOC is aware of that, of course, and that is why it transferred the inmate to a different institution.

Rahming's calling the inmate a snitch in front of staff and inmates was inappropriate. Additionally, it put the inmate's safety in jeopardy. It also put the staff tasked with guarding that inmate in jeopardy. Responsibility for creating that safety issue can fairly be laid at Rahming's feet. But for his outing of the inmate as a snitch, the safety issue would not have occurred.

The charge made against Rahming was therefore substantiated. His conduct clearly constituted workplace misconduct which, in turn, warranted discipline.

Having so found, we next address the question of whether the discipline imposed here (i.e. discharge) was excessive. Prior to this incident, he had received three suspensions in six months for other misconduct. He got a one-day suspension in November 2018, a three-day suspension in January 2019, and a five-day suspension in April 2019. Under DOC's progressive disciplinary "schedule", a five-day suspension is the last step before discharge. It was in that context that the misconduct involved here occurred. Given the fact that Rahming had only worked for DOC for 2½ years, his standing in the disciplinary progression, and the fact that his misconduct here was significant, the Commission finds that discharge was not an excessive punishment under the circumstances.

The Commission therefore finds that DOC had just cause to discharge Rahming.

Issued at the City of Madison, Wisconsin, this 1st day of April, 2020.

¹ In Rahming's objection to the proposed decision he argues again that it would have been impossible for the inmates to have overheard his statements relating to the inmate. Persuasive testimony was presented that demonstrates Rahming is incorrect in this assertion and that the volume of his voice was sufficient to carry to the inmate area in question.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman