

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

OMAR LATIF, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0412

Case Type: PA

DECISION NO. 38814

Appearances:

Kesha Packer, Packer Crisis Management, P.O. Box 2031, Roswell, Georgia, appearing on behalf of Omar Latif.

Cara Larson, 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 November 25, 2020, Omar Latif 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. The appeal was assigned to Examiner Raleigh Jones. A telephone hearing was held on February 9, 2021. The parties made oral argument at the conclusion of the hearing.

On March 2, 2021, Examiner Jones issued a Proposed Decision and Order affirming the one-day suspension. On March 8, 2021, Latif filed objections to the Proposed Decision and Order. The State did not file a reply to the objections on or before the March 15, 2021 deadline.

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

FINDINGS OF FACT

1. Omar Latif is employed by the State of Wisconsin Department of Corrections (DOC) as a program support supervisor in the Division of Community Corrections and had permanent status in class at the time of his one-day suspension.

2. Latif's supervisor was Beverly Dillon.

3. On July 6, 2020, Latif had a phone call with his supervisor where he used profane language in a derogatory manner.

4. DOC suspended Latif for one day for doing that.

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 Omar Latif 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 Omar Latif by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 16th day of March, 2021.

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.

Omar Latif 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 Latif 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).

Department of Corrections Work Rule 14 states it is a violation for an employee acting in such a manner as "Intimidating, interfering with, harassing, demeaning, treating discourteously, or bullying; or using profane or abusive language in dealing with others".

After reviewing the record presented and the evidence as a whole, it is determined that Latif was in violation of Work Rule #14 and that there was just cause for his one-day suspension, which is hereby affirmed.

Issued at Madison, Wisconsin, this 16th day of March, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman