

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DANIEL J. DOUGLAS, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0456

Case Type: PA

DECISION NO. 38957

Appearances:

Daniel J. Douglas, 902 West 2nd Avenue, Brodhead, Wisconsin appearing on his own behalf.

Anfin Jaw, Department of Administration, 101 E. 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 May 6, 2021, Daniel J. Douglas 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 (DOC)

A telephone hearing was held on May 26, 2021 by Commission Examiner Peter G. Davis. The parties made oral argument at the end of hearing and Douglas filed supplemental argument on June 7, 2021.

On June 7, 2021, Examiner Davis issued a Proposed Decision and Order affirming the one-day suspension by DOC. On June 10, 2021, Douglas filed objections to the Proposed Decision. The State did not file a reply by the deadline given of June 15, 2021.

Being fully advised on the premises and having considered the matter, the Commission makes and issues the following:

FINDINGS OF FACT

1. Daniel J. Douglas, herein Douglas, is employed by the State of Wisconsin Department of Corrections (DOC). He had permanent status in class at the time of his suspension.

2. Douglas slammed a door when leaving a work shift and caused damaged to some wall tiles.

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 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 Daniel J. Douglas 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 Daniel J. Douglas is affirmed.

Issued at Madison, Wisconsin, this 9th day of July, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.34(1)(a), Stats., states in pertinent part:

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.

Douglas 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 Douglas 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).

Douglas was suspended for allegedly leaving his shift without following proper procedures and for causing damage to some wall tiles when he slammed a door as he left. Douglas disputes that he failed to follow proper procedures during a shift change but agrees that he caused damage to some wall tiles.

The Commission concludes that the admitted misconduct establishes just cause for a one-day suspension and thus there is no need to determine whether any additional misconduct occurred. The one-day suspension is affirmed.

Issued at Madison, Wisconsin, this 9th day of July, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman