

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

REED TREFZ, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0480

Case Type: PA

DECISION NO. 39278

Appearances:

Reed Trefz, 3584 Fennimore Liberty Road, Stitzer, Wisconsin, appearing on his own behalf.

Nicole Rute, Attorney, sDepartment 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 August 11, 2021, Reed Trefz filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for three days without just cause by the State of Wisconsin Department of Corrections (DOC). The matter was assigned to Commission Examiner Peter G. Davis.

A telephone hearing was held on October 5, 2021 by Examiner Davis. The parties made oral argument at the end of the hearing. On November 9, 2021, Examiner Davis issued a Proposed Decision and Order affirming the three-day suspension by DOC. The parties did not file objections to the Proposed Decision by the deadline given of November 15, 2021.

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

FINDINGS OF FACT

1. Reed Trefz, herein Trefz, is employed by the State of Wisconsin Department of Corrections (DOC) at the Wisconsin Secure Program Facility as a Sergeant. At the time of his suspension, he had permanent status in class and had recently received a one-day suspension.

2. On March 29, 2021, Trefz acted in a manner that was disrespectful and unprofessional toward superior officers.

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 did have just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to suspend Reed Trefz for three days.

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

ORDER

The three-day suspension of Reed Trefz by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin this 19th day of November, 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.

Trefz 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 Trefz 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).

On March 29, 2021, Trefz responded to an order in a tone that was reasonably understood by all who heard it as disrespectful and potentially as refusing to obey. Trefz subsequently initiated an argument with the Security Director over who did or didn't understand the chain of command. While Trefz followed the order in question and contends he had no intention of being insubordinate, his chance for this matter to not escalate to a disciplinary event vanished when he subsequently chose to pursue an argument with the Security Director over how matters had unfolded. Particularly in the para-military setting of a prison, public and private respect for superior officers is of paramount importance. By behaving in a manner that was disrespectful and unprofessional to his superior officers, Trefz engaged in misconduct worthy of discipline.

As to whether there was just cause for a three-day suspension, Trefz had recently received a one-day suspension at the time of the March 29, 2021 incident. Given this prior discipline, it is concluded that there was just cause for a three-day suspension – a conclusion which is also consistent with DOC's standard disciplinary progression.

Issued at Madison, Wisconsin this 19th day of November, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman