

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LISA BLACK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0107

Case Type: PA

DECISION NO. 39308

Appearances:

Lisa Black, 2921 North 39th Street, Milwaukee, Wisconsin, appearing on her own behalf.

Anfin Jaw, Attorney, Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of State of Wisconsin Department of Health Services.

DECISION AND ORDER

On December 14, 2021, Lisa Black filed an appeal with the Wisconsin Employment Relations Commission asserting she had been suspended for one day without just cause by the State of Wisconsin Department of Health Services (DHS).

A telephone hearing was held on January 11, 2022 by Commission Examiner Peter G. Davis. DHS made oral argument at the end of hearing and Black submitted a written statement that same day. On February 7, 2022, Examiner Davis issued a Proposed Decision and Order affirming the one-day suspension by DHS. No objections to the Proposed Decision were filed by either party by the deadline given of February 14, 2022.

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

FINDINGS OF FACT

1. Lisa Black, herein Black, is employed by the State of Wisconsin Department of Health Services as a Human Services Program Coordinator-Senior. She had permanent status in class at the time of her suspension.
2. Black was inattentive during a meeting which caused her to improperly provide \$4,666 in benefits to Department clients.

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 Health Services did have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Lisa Black 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 Lisa Black by the State of Wisconsin Department of Health Services is affirmed.

Issued at the city of Madison, Wisconsin, this 22nd day of February, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING FINAL 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.

Black had permanent status in class at the time of her suspension and her appeal alleges that the suspension was not based on just cause.

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

During a staff meeting that Black attended, employees with her job responsibilities were told not to process a certain type of benefit for certain clients pending further discussion within the Department. Black was the only employee present who nonetheless proceeded to process the benefit. Her action caused \$4,666 in overpayments to clients.

Black asserts she did nothing wrong and did not understand that there was direction given not to process the claims in question. Because none of the other employees misunderstood the instruction that was given, the Commission is satisfied that the direction in question was clear and that Black's failure to follow the directive was inattentive. Her misconduct caused an overpayment of \$4,666 in benefits. Given this fiscal impact of her misconduct, the Commission is further satisfied that there was just cause for a one-day suspension.

Issued at the city of Madison, Wisconsin, this 22nd day of February, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman