

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CHRIS EPLETT, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0513

Case Type: PA

DECISION NO. 39439

Appearances:

Chris Eplett, 606 West Mackie Street, Beaver Dam, Wisconsin, appearing on his own behalf.

Nicole Rute, Attorney, 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 March 8, 2022, Chris Eplett 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 16, 2022 by Commission Examiner Peter G. Davis. The parties made closing arguments at the conclusion of the hearing. The Examiner subsequently advised the parties that he had inadvertently erased the recording of the evidentiary portion of the hearing. Rather than conducting the hearing again, the parties chose to have the Commission rely on the exhibits received during the hearing as the evidentiary record. The parties thereafter filed written argument and the record was closed June 16, 2022.

On June 17, 2022, Examiner Davis issued a Proposed Decision and Order affirming the one-day suspension by DOC. Eplett filed objections to the Proposed Decision on June 20, 2022. DOC filed a reply to the objections on June 27, 2022.

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

FINDINGS OF FACT

1. Chris Eplett, herein Eplett, is employed by the State of Wisconsin Department of Corrections (DOC) as the Education Director at the Fox Lake Correctional Institution. He had permanent status in class at the time of his suspension.

2. Eplett initiated a conversation with a subordinate which became a confrontation and then failed to defuse the situation.

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 Chris Eplett 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 Chris Eplett by the State of Wisconsin Department of Corrections is affirmed.

Issued at the City of Madison, Wisconsin, this 29th day of June, 2022.

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.

Eplett 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 Eplett 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).

At the time of the incident, Eplett had recently replaced another supervisor who was lax in enforcing various work rules. Eplett began to enforce work rules including the requirement that employees wear COVID-related masks. His enforcement of rules caused resentment among some of the employees he supervised.

On the day in question, Eplett sought to have a conversation with an employee regarding the continuing need to wear a COVID-related mask. The employee did not want to have the conversation with Eplett, became very agitated, and sought to leave the workplace. Eplett blocked the employee's path several times. The employee ultimately left the workplace and wrongly believed he had been discharged. The employee received a one-day suspension for his role in the confrontation.

Eplett correctly points out that his interest in having a conversation with the employee was legitimate and well intentioned. He certainly cannot be faulted for his effort to enforce existing rules and cannot be held to account for the employee resentment that those enforcement efforts created. Nonetheless, as Eplett himself concedes, he should have taken steps to defuse the situation once it became apparent that the employee was extremely upset. Instead, his initial efforts to block the employee from leaving made matters worse.

Given the foregoing, the Commission is satisfied that Eplett engaged in misconduct when he failed to defuse the situation.

As to whether there was just cause for a one-day suspension, DOC persuasively argues that Eplett's status as a supervisor legitimately allows DOC to hold him to a high standard of conduct and judgment. Within that context, the Commission concludes that there was just cause for a one-day suspension.

Issued at the City of Madison, Wisconsin, this 29th day of June, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman