

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JEANETTE BRAND, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0678

Case Type: PA

DECISION NO. 40740

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**Appearances:**

Jeanette Brand, 937 High Avenue, Hillsboro, Wisconsin, appearing on her own behalf.

Nicole Porter, 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**

Jeanette Brand is employed as Sergeant by the State of Wisconsin Department of Corrections at the New Lisbon Correctional Institute in New Lisbon, Wisconsin. On August 28, 2024, Brand was injured at work while on the job in the course of her employment. Brand sought and was denied benefits under Wis. Stat. § 230.36, Stats. She filed a timely grievance and pursued that matter through the grievance procedure.

Brand filed a timely appeal to the Wisconsin Employment Relations Commission on September 23, 2024. The matter was assigned to Examiner Katherine Scott Lisiecki. A telephone hearing was held on December 18, 2024, and the parties made oral arguments at the end of the hearing. On February 3, 2025, Examiner Lisiecki issued a Proposed Decision and Order concluding Brand is not eligible for benefits under Wis. Stat. § 230.36. No objections to the Proposed Decision were filed by the parties, and the matter became ripe for Commission consideration on February 25, 2025.

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

**FINDING OF FACT**

1. On August 28, 2024, Jeanette Brand was employed by the State of Wisconsin Department of Corrections as a Sergeant at New Lisbon Correctional Institution and suffered an injury.

Based on the above and foregoing Finding of Fact, the Commission makes and issues the following:

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to Wis. Stat. § 230.36(4).
2. While working as a guard within the meaning of Wis. Stat. § 230.36(2m)20, Brand suffered an accidental injury within the meaning of Wis. Stat. § 230.36(1m)(a).
3. At the time of Brand's injury, she was not engaged in any of the activities set forth in Wis. Stat. § 230.36(1m)(b)3.a-f.
4. Brand is not eligible for benefits under Wis. Stat. § 230.36.

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

**ORDER**

That the appeal of Jeanette Brand is rejected and dismissed.

Issued at the City of Madison, Wisconsin, this 6<sup>th</sup> day of March 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**

Certain state employees may be entitled to hazardous duty pay if they are injured in the performance of their duties. The law in question, Wis. Stat. § 230.36, sets qualifying standards based upon the employee's job and a second set of qualifying standards based on the work the employee was performing when injured. Guards and other employees at state penal institutions are eligible for hazardous duty pay if they are injured, or physically harmed by accident or disease, (a) in the process of quelling a riot or disturbance or other act of violence; (b) in the process of restraining patients, inmates, probationers, parolees or persons on extended supervision and apprehending runaways or escapees, including probationers, parolees and persons on extended supervision; (c) when injury is occasioned as the result of an act by a patient, inmate, probationer, parolee or person on extended supervision; (d) in the process of making an arrest or investigating any violation or suspected violation of law pursuant to police powers authorized by Wis. Stat. § 46.058(2) or 301.29(2) and rules adopted pursuant thereto; (e) going to or returning from a fire, engaging in the suppression of a fire, evacuating patients or inmates because of a fire or engaging in fire drills; or (f) when disease is contracted as a result of exposure to such disease arising out of the care of inmates or patients.

Here, it is undisputed that Jeanette Brand is an employee at a state penal institution, New Lisbon Correctional Institution. On August 28, 2024, an inmate was moved to a different cell house. A sergeant told Brand to go to the inmate's cell and retrieve the inmate's bedding. While doing so, she felt a burning sensation and noticed a "white powder caked on her arm," presumably from the bedding. *See Exhibit A-1*, pg. 6. Soon after, a rash appeared on Brand's arms. She felt nauseated and suffered from a headache. Brand sought medical treatment at the health services unit and then in the emergency room. Brand believes she suffered an allergic reaction to a substance on the bedding.

The question then becomes whether this falls within the scenarios outlined in Wis. Stat. § 230.36. Brand did not retrieve the inmate's bedding in the process of quelling a riot, disturbance, or act of violence. She did not restrain an inmate. The injury was not occasioned as the result of an act of an inmate. Brand was not suppressing a fire. Brand attributes her symptoms to a "white powder" on the bedding; there is no evidence to suggest that these symptoms arose from a disease she contracted from an inmate. Brand was not making an arrest or investigating a suspected violation of law per the meaning of Wis. Stat. § 230.36(1m)(b)3.d.

Wisconsin Stat. § 230.36 carefully limits hazardous duty pay to specific state employees performing a number of specific duties. Therefore, Brand's actions do not fall within the scenarios outlined in § 230.36, and she is ineligible for hazardous duty pay.

Issued at the City of Madison, Wisconsin, this 6<sup>th</sup> day of March 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman