

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CASEY JOHNSTON, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0702

Case Type: PA

DECISION NO. 40757

Appearances:

Casey Johnston, Dodge Correctional Institution, 1 West Lincoln Street, Waupun, Wisconsin, appearing on his own behalf.

David G. Makovec, Attorney, Department 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 December 6, 2024, Casey Johnston 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 appeal was assigned to Commission Examiner Anfin J. Wise.

A hearing was held on February 13, 2025, by Examiner Wise. The parties made oral argument at the conclusion of the hearing. On February 27, 2025, Examiner Wise issued a Proposed Decision and Order affirming the three-day suspension of Casey Johnston by the DOC. No objections to the Proposed Decision were filed by the parties and the matter became ripe for Commission consideration on March 15, 2025.

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

FINDINGS OF FACT

1. Casey Johnston (Johnston) is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Sergeant at Dodge Correctional Institution (DCI) and had permanent status in class at the time of his three-day suspension.

2. DCI is a maximum-security correctional institution located in Waupun, Wisconsin operated by DOC, a state agency of the State of Wisconsin.

3. On July 20, 2024, Johnston was the Unit 18 Sergeant, assigned to first shift, 6:00 a.m. to 2:00 p.m.

4. On July 20, 2024, Johnston left his post early without supervisory approval or waiting for his relief.

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 to review 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 Casey Johnston 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 Casey Johnston by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 20th day of March 2025.

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.

Casey Johnston 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 Johnston 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).

Johnston does not dispute that he was scheduled to work as the first shift Unit 18 Sergeant on July 20, 2024, 6:00 a.m. to 2:00 p.m. He also does not dispute that he left his post early, without supervisory approval or waiting for his relief on that day. DOC's Standard Hours of Work Policy, as well as the Unit 18 Sergeant post orders, state that employees must remain on their assigned post or work location until a relief has assumed the post. Thus, misconduct has been established.

Nevertheless, Johnston asserts that it is common practice for staff to leave their post early without waiting for their relief, and that he was never directed not to leave. However, credible testimony and evidence established that staff may leave their post early, but only when they have been properly relieved, or they receive supervisory approval. Additionally, while he was never directed not to leave, the lobby staff are under the assumption that the individual has been properly relieved, or they have received approval if they are leaving early. Therefore, the Commission rejects Johnston's defenses. Accordingly, we find that Johnston can be held accountable for his misconduct.

Turning now to the level of discipline imposed here, the Commission finds that Johnston's misconduct does provide just cause for the imposition of a three-day suspension. It is expressly noted that Johnston previously received a one-day suspension on March 20, 2024. The three-day suspension is following progressive discipline and is therefore affirmed.

Issued at Madison, Wisconsin, this 20th day of March 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman