

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KEITH DUERST, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0804

Case Type: PA

DECISION NO. 41246

Appearances:

Keith Duerst, c/o Oakhill Correctional Institution, 5212 County Hwy M, Oregon, Wisconsin, appearing on his own behalf.

Nicole M. Porter, 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 August 4, 2025, Keith Duerst 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 Anfin J. Wise.

A Zoom hearing was held on October 30, 2025, by Examiner Wise. The parties made oral argument at the conclusion of the hearing.

On November 7, 2025, Examiner Wise issued a Proposed Decision and Order modifying the three day suspension of Keith Duerst by the DOC to a Letter of Expectation. On November 12, 2025, DOC filed objections to the Proposed Decision and Order and on November 13, 2025, Duerst file a reply.

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

FINDINGS OF FACT

1. Keith Duerst (Duerst) is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Sergeant at Oakhill Correctional Institution (OCI), and he had permanent status in class at the time of his suspension.

2. OCI is a minimum-security correctional facility located in Oregon, Wisconsin operated by DOC, a state agency of the State of Wisconsin.

3. On January 28, 2025, after conducting his 5:00AM security round and logging the round in the e-logbook, Duerst noticed that he forgot to log a 4:00AM round. Wrongly believing that he completed a 4:00AM round, he then logged that he had completed a 4:00AM round.

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 not have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Keith Duerst for three days but did have just cause to suspend him 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 three-day suspension of Keith Duerst shall be modified to a one-day suspension and he shall be made whole with interest.¹

Issued at Madison, Wisconsin, this 21st day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

¹ See Wis. Admin. Code § ERC 94.07.

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.

Keith Duerst 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 Duerst 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).

The facts are not in dispute. As reflected in Finding of Fact 3, Duerst failed to complete a security round and then logged that he had completed the round in question.

A missed security round can be a matter of life or death for an inmate—particularly for the inmate population housed at OCI. Additional risks are created if an employee even inadvertently records a round he did not conduct. Therefore, there can be no doubt that Duerst engaged in misconduct.

The Commission recently held that there was just cause for a one level skip in progression for misconduct such as Duerst's. *See Terstreip v. DOC*, Dec. No. 41248 (WERC, 11/05). As Duerst was discipline free at the time of his misconduct, a one level skip would yield the three-day suspension imposed here. However, Duerst has what can only be described as a “spotless” employment history during his 28 years with the DOC. He has never received any discipline, letters of expectation, or even job instructions. The Commission has previously held that a very lengthy record of loyal service to the State can warrant a just cause based reduction in the level of discipline that would otherwise be appropriate. *See Black v. DHS*, Dec. No. 40395-A (WERC, 8/04). Such a reduction is warranted here. Therefore, the three-day suspension of Keith Duerst has been reduced to a one-day suspension and he shall be made whole for the difference.

Issued at Madison, Wisconsin, this 21st day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman