

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BRITTINY SHEPHERD, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0797

Case Type: PA

DECISION NO. 41247

Appearances:

Paul Leyer, c/o Racine Correctional Institution, 2019 Wisconsin Street, Sturtevant, Wisconsin, appearing on behalf of Brittiny Shepherd.

William H. Ramsey, Deputy Chief Legal Counsel, 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 July 18, 2025, Brittiny Shepherd 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 Corrections (DOC). The matter was assigned to Commission Examiner Anfin J. Wise. On September 16, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Wise was given final authority to issue the Commission's decision.

A Zoom hearing was held on October 23, 2025, by Examiner Wise. The parties made oral argument at the conclusion of the hearing.

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

FINDINGS OF FACT

1. Brittiny Shepherd (Shepherd) is employed by the State of Wisconsin Department of Corrections (DOC) as a Correctional Officer at Racine Correctional Institution (RCI), and she had permanent status in class at the time of her suspension.

2. The DOC is a state agency responsible for the operation of various correctional facilities including RCI, a medium-security facility located in Sturtevant, Wisconsin.

3. On April 1, 2025, Shepherd engaged in unprofessional and discourteous behavior while interacting with a coworker, which included the use of profanity.

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 Brittney Shepherd for one day.

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

ORDER

1. The one-day suspension of Brittney Shepherd by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 7th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Hearing Examiner

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.

Brittney Shepherd 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 Shepherd 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).

On April 1, 2025, Brittney Shepherd and Sgt. Latasha Wilson were working in the institution Control Center near each other. Wilson was doing inventory of equipment and overheard a lieutenant talking to Shepherd about vigil bags. Wilson continued to do inventory and noticed there were two vigil bags when there were supposed to be three. Wilson then asked Shepherd whether the lieutenant said anything about returning a vigil bag. Shepherd responded to Wilson, something to the effect of, "I don't fucking know. She never knows what the fuck she is talking about." Wilson then stated that she was just asking for inventory purposes. Shepherd again responded, "I don't fucking know," and slammed some equipment on the table next to her. Shepherd then proceeded to take equipment out of a drawer and slammed it on the table. Wilson continued to do inventory when Shepherd then stated, "I don't know why you are doing inventory when all the shit is right here," or something to that effect. Wilson responded that she was not going to pick up anything that she (Shepherd) had thrown around.

At the hearing, another coworker who heard the commotion between Shepherd and Wilson confirmed that he heard Shepherd say to Wilson, "I don't fucking know." Shepherd denied using profanity or slamming equipment on the table. She asserted that the metal equipment is heavy and loud and claimed that Wilson always talked to her in a demeaning manner.

The Commission concludes that a preponderance of the credible evidence established that Shepherd was discourteous and unprofessional in her interaction with Wilson on April 1, 2025, which included the use of profane language. Thus, misconduct has been established.

We now turn to Shepherd's defenses. Shepherd first argues that she requested the institution video surveillance covering the area where the interaction took place, but DOC failed

to preserve the videos or provide them as part of her discovery request. Shepherd maintains that the video evidence would have confirmed her version of the events. However, at the hearing DOC explained that the institution's video surveillance does not contain any audio. Thus, the video footage would not be helpful. Shepherd then agreed. Therefore, we reject this argument.

Next, Shepherd asserts that the facts are in dispute because it is a "he said, she said" type of situation, or rather a "she said, she said." While true, two witnesses credibly testified to the interaction between Shepherd and Wilson. Additionally, the record established that Shepherd has previously received a written job instruction in January 2023 regarding professional communication, which included a reminder to stay professional at all times while communicating with staff.

Turning now to a just cause consideration of the level of discipline Shepherd received. The Commission finds that Shepherd's misconduct does provide just cause for progressive discipline and the imposition of a one-day suspension. It is expressly noted that a one-day is the first step in the progressive disciplinary schedule. Therefore, the one-day suspension is affirmed.

Issued at Madison, Wisconsin, this 7th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Hearing Examiner