

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DOUGLAS LINDNER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF MILITARY AFFAIRS, Respondent.

Case ID: 265.0013

Case Type: PA

DECISION NO. 41547

Appearances:

Douglas Lindner, N4702 22nd Avenue, Mauston, Wisconsin, appearing on his own behalf.

Nicole Porter, Attorney, Department of Administration, 101 E. Wilson St., 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Military Affairs.

DECISION AND ORDER

On May 28, 2026, Douglas Lindner filed an appeal with the Wisconsin Employment Relations Commission asserting he had been discharged without just cause by the State of Wisconsin Department of Military Affairs. The appeal was assigned to Commission Examiner Cara Larson.

A hearing was held via Zoom on July 17, 2026, by Examiner Larson. The parties made oral closing arguments at the end of the hearing. On August 24, 2026, Examiner Larson issued a Proposed Decision and Order modifying the discharge of Douglas Lindner to reinstatement without backpay. No objections to the Proposed Decision and Order were filed by the parties, and the matter became ripe for Commission consideration on September 1, 2026.

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

FINDINGS OF FACT

1. Douglas Lindner (Lindner) was employed by the State of Wisconsin Department of Military Affairs (DMA), as a HVAC Refrigeration Specialist–Advanced and had permanent status in class at the time of his discharge.

2. The DMA is a Wisconsin state agency that operates state and federal facilities, including Volk Field, in Camp Douglas, Wisconsin.

3. On October 24, 2024, Lindner met with several supervisors who presented him with a Letter of Expectation concerning attendance. During the meeting, Lindner became agitated, raised his voice, interrupted David Ferris while Ferris was speaking, and displayed agitated body language, including shaking and pointing. Ferris told Lindner to stop interrupting him. Lindner ultimately did so, apologized, and the meeting continued. The meeting ended without further incident.

4. The DMA did not discipline Lindner for his conduct at the October 24, 2024, meeting at that time. Lindner continued working for the DMA for approximately another year and during that time he received discipline for unrelated matters. On April 21, 2025, he received a letter in lieu of a one-day suspension, and on January 23, 2026, he received a letter in lieu of a three-day suspension and a five-day suspension.

5. Lindner was placed on administrative leave in September 2025, when the DMA began investigating his conduct at the October 24, 2024, meeting.

6. During the investigation, the DMA also considered an allegation that Lindner's personal vehicle had been observed near Volk Field while he was on administrative leave. Katie Baird saw an orange van near Volk Field but did not obtain its license plate nor see Lindner in the vehicle. Lindner denied that the vehicle was his and denied being there at that time.

7. The DMA discharged Lindner on March 24, 2026, for acting in a demeaning and discourteous manner during the October 24, 2024, meeting and for being in the vehicle observed near Volk Field while he was on administrative leave.

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 Department proved that Lindner engaged in demeaning or discourteous conduct during the October 24, 2024, meeting.

3. The Department did not prove that Lindner's vehicle was the vehicle observed near Volk Field while he was on administrative leave.

4. The State of Wisconsin Department of Military Affairs did not have just cause within the meaning of Wis. Stat. § 230.34 (1)(a) to discharge Douglas Lindner but did have just cause to

suspend him without pay from the date of his discharge to the date he is promptly reinstated pursuant to this Decision.

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

ORDER

The discharge of Douglas Lindner by the State of Wisconsin Department of Military Affairs is modified to a reinstatement without backpay and he shall be promptly reinstated without loss of seniority.

Issued at Madison, Wisconsin, on the 17th day of September 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, 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.

Douglas Lindner had permanent status in class at the time of his discharge, and his appeal alleged that the discharge was not based on just cause.

The State has the burden of proof to establish that Lindner was guilty of the alleged misconduct and that 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).

During the October 24, 2024, meeting with management, Lindner became agitated and interrupted Ferris. Four witnesses who attended the meeting generally agreed about Lindner's demeanor. Lindner himself also acknowledged that he was agitated and interrupted Ferris. His conduct was inappropriate. Employees must communicate respectfully with supervisors, even when they disagree with a workplace decision. Lindner therefore committed misconduct at that meeting and discipline was warranted.

The next issue is whether discharge was warranted for the misconduct. The October 24, 2024, meeting forms the core of the Department's case. The Department's supervisors witnessed Lindner's conduct when it occurred. Yet the Department did not discipline him at that time. Nor did it place him on administrative leave to investigate it. Instead, Lindner continued working for approximately another year before the Department placed him on administrative leave to investigate his conduct at that meeting. This delay cuts against the seriousness of his conduct in that meeting being the most serious where discharge is appropriate.

The circumstances of the October meeting also do not support discharge. Lindner was upset about receiving a Letter of Expectation concerning his attendance. He questioned the fairness of the attendance rules including why he was being disciplined when he believed other employees were leaving early. He talked over people and interrupted Ferris while Ferris was speaking. When Ferris told him to stop interrupting, Lindner complied and apologized. The meeting then continued and ended without further incident. Although his conduct was inappropriate, the evidence does not establish that, standing alone, his behavior warrants the most serious discipline available.

The Department also relies on other statements and concerns that witnesses described during the hearing. Some supervisors found those reports concerning, particularly, when considered with Lindner's demeanor during the October 2024 meeting. But the Commission must determine whether the misconduct charged in the discharge letter warrants discharge. The Department cannot rely on additional, uncharged conduct to elevate the October 24 incident to a discharge-level offense.

The Department failed to prove the allegation concerning Lindner's vehicle. Baird saw an orange van near Volk Field that she believed may have been Lindner's. She did not obtain the vehicle's license plate nor see Lindner in the vehicle. Lindner denied that the vehicle was his and denied being there. The Department therefore did not prove this allegation.

The Commission also rejects Lindner's apparent disparate treatment argument. Lindner argues that other employees were permitted to leave work early without discipline while he was disciplined for attendance violations. However, he did not establish that those employees violated attendance rules or that management knew of and failed to address such violations. More importantly, the Department did not discipline Lindner for an attendance violation in this proceeding. It disciplined him for his conduct in the October 24, 2024, meeting. The appropriate comparison therefore would be employees who engaged in the same type of discourteous or demeaning conduct, and Lindner did not establish that such employees received lesser discipline.

Lindner's conduct during the October 2024 meeting was inappropriate and warranted discipline, but termination is excessive. The Department knew about Lindner's conduct at the October 24, 2024, meeting when it occurred because numerous members of management were there. Yet they waited approximately one year before investigating it as a disciplinary matter. That delay weighs against Lindner's behavior as being the most serious for which the imposition of the most serious discipline, i.e. discharge is warranted. However, a suspension from the date of his discharge to the date he is promptly reinstated pursuant to this Decision is appropriate and sufficient to address the proven misconduct.

Issued at Madison, Wisconsin, on the 17th day of September 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman