

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TRISTAN TIFFANY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0943

Case Type: PA

DECISION NO. 41559

Appearances:

Tristan Tiffany, 226 West Franklin Street, Waupun, 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 Corrections.

DECISION AND ORDER

On June 18, 2026, Tristan Tiffany filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for five days without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Commission Examiner Cara Larson.

A Zoom hearing was held on August 28, 2026, by Examiner Larson. The parties made oral closing arguments at the end of the hearing. On September 9, 2026, Examiner Larson issued a Proposed Decision and Order affirming the five-day suspension of Tiffany by the DOC. No objections to the Proposed Decision were filed by the parties, and the matter became ripe for Commission consideration on September 15, 2026.

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

FINDINGS OF FACT

1. Tristan Tiffany is employed by the State of Wisconsin Department of Corrections (DOC), as a Correctional Officer at Waupun Correctional Institution and had permanent status in class at the time of his discipline.

2. The DOC is a state agency responsible for the operation of various corrections facilities including Waupun Correctional Institution, located in Waupun Wisconsin.

3. In July 2025, DOC notified employees of changes to its attendance policy and that employees could have no more than four unscheduled absences for the remainder of the year. Tiffany exceeded that limit.

4. Following an investigation, the DOC issued a five-day suspension to Tiffany for the misconduct referenced in Finding of Facts 4.

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 issue Tristan Tiffany a five-day suspension.

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

ORDER

The five-day suspension of Tristan Tiffany by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 21st 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.

Tristan Tiffany had permanent status in class at the time of his discipline, and his appeal alleges that the discipline was not based on just cause.

The State has the burden of proof to establish that Tiffany 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).

In July 2025 DOC notified employees of a change in its attendance policy. For the remainder of 2025, employees could have no more than four unscheduled absences before becoming subject to discipline for excessive absenteeism. Tiffany exceeded that limit. DOC's December 2025 disciplinary letter identified eight unscheduled absences, including absences on July 26, August 15, September 11, October 3, October 9, November 1, December 18, and December 23, 2025. At the hearing, however, DOC acknowledged that two of the dates listed in the letter, October 9 and December 18, 2025, were covered by FMLA and should not have been counted.

Tiffany argues that the December 23 absence should also not count because he intended to use FMLA leave to care for his mother. Employees were expected to identify when an absence was being taken as FMLA leave so that the absence could be properly recorded. During the investigation Tiffany acknowledged that he did not identify the absence as FMLA and could not recall whether he recorded it as FMLA on his timesheet. Tiffany testified, however, that he told his supervisor that he was calling in sick under FMLA even though the December 23 absence was not recorded as FMLA in the DOC system.

The Commission does not need to determine whether the December 23 absence qualified as FMLA leave to resolve this matter. DOC acknowledged that two of the absences listed in the disciplinary letter were protected by FMLA and should not have been counted. Thus, of the eight absences identified in the letter, six remain. Even if the Commission accepts Tiffany's claim that December 23 was also FMLA-protected, five qualifying unscheduled absences remain. That exceeds the four-occurrence limit. So, even excluding that absence from consideration would not

change the result. Tiffany still exceeded the attendance limit by one occurrence. Tiffany had also received prior discipline for attendance-related violations and therefore was aware of DOC's expectations. The Department therefore proved that misconduct occurred.

Turning now to a just cause consideration of the level of discipline Tiffany received. The Department followed its progressive discipline process and imposed the next disciplinary step. Tiffany had previously received a one-day suspension in August 2025 and a three-day suspension in September 2025. The next step in the progressive discipline sequence is a five-day suspension. The discipline imposed was therefore not excessive.

Accordingly, the DOC had just cause to issue a five-day suspension and the discipline is affirmed.

Issued at Madison, Wisconsin, this 21st day of September 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman