

**BOARD OF CITY SERVICE COMMISSIONERS
CITY OF MILWAUKEE**

IN THE MATTER OF
HOWARD SILVER
V.
CITY OF MILWAUKEE

FINDINGS AND DECISION

This is the written determination of the Board of City Service Commissioners on the administrative appeal hearing in this case. A timely appeal was received from Howard Silver (hereinafter the "Appellant") challenging his suspension from the position of Municipal Services Electrician, Department of Public Works (hereinafter the "Department") on July 13, 2022.

An administrative appeal hearing was held pursuant to Sec. 63.43, Wis. Stats. and City Civil Service Rule XIV, Section 2, by video conference on Tuesday, October 11, 2022 at 1:30 p.m. The witnesses were sworn and all testimony was taken by a Court Reporter.

Appearances:

City Service Commission:	Francis Bock, President Marilyn Miller, Vice President Janet Cleary, Commissioner Kobena-Marcus Collins, Commissioner Steve Smith, Commissioner Kristin Urban, Interim Executive Secretary Karen Biernat, Administrative Assistant Coordinator
Commission Represented By:	Patrick McClain, Assistant City Attorney
Appellant Represented By:	Himself
Department Represented By:	Nicholas Cahala, Human Resources Analyst Sr.
Witnesses:	Dan Thomas, DPW Administrative Services Director Dawn Redmond, Electrical Worker Ronald Madritsch, Municipal Electrician

ISSUE

The issue is whether there was just cause for the action taken by the Department in accordance with Section 63.43, Wisconsin Statutes.

Based upon the evidence in the record, the Commission finds as follows:

FINDINGS OF FACT

1. Appellant was employed by the City as a Municipal Services Electrician.
2. On July 13, 2022, Mr. Silver was suspended from the department for 10 days, with seven days held in abeyance, under City Service Rule XIV, Section 12, Paragraph Q for sleeping during working hours on July 5, 2022.
3. Within the preceding six-month period, Mr. Silver had received another disciplinary suspension.
4. A pre-disciplinary hearing was held on July 12, 2022.
5. A photograph was posted online that appeared to show Mr. Silver sleeping in a DPW work vehicle on July 5, 2022.
6. Mr. Silver did not dispute the authenticity of the photograph, but claimed he had been experiencing heat-related health issues on July 5, 2022.
7. Mr. Silver did not notify a supervisor of any heat-related health issues on July 5, 2022, nor did he use or request sick leave on that date.
8. The Department notified Mr. Silver of the suspension on July 18, 2022.
9. The appeal was filed in a timely manner via letter dated July 19, 2022.

CONCLUSIONS OF LAW

1. Appellant is entitled to an appeal because he received two suspensions within a period of 6 months.

2. The Appellant is an employee holding a classified position in the Department of Public Works, the appointing authority within the meaning of Sec. 63.43, Wis. Stats., and City Civil Service Rules I and XIV.
3. The Department demonstrated by the preponderance of the evidence that there is just cause to discipline the Appellant for violation of City Service Rule XIV, Section 12, Paragraph Q.
4. The Department demonstrated by the preponderance of the evidence that there is just cause to suspend the Appellant for 10 working days, with seven days held in abeyance, for violation of City Service Rule XIV, Section 12, Paragraph Q.

ORDER

The suspension of Appellant on July 13, 2022 for 10 days, with seven days held in abeyance, is sustained.

Dated and signed at Milwaukee, Wisconsin, this 15th day of November, 2022.

FRANCIS BOCK, PRESIDENT