

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

IN THE MATTER OF
KEITH CHAMBLISS
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 Keith Chambliss (hereinafter the "Appellant") challenging his discharge from the position of Sewer Crew Leader in the Department of Public Works (hereinafter "DPW" or the "Department") on March 1, 2024.

An administrative appeal hearing was held in hybrid format (both in-person and by video conference) pursuant to Sec. 63.43, Wis. Stats. and City Service Commission Rule XI, Section 2, on Tuesday, May 21, 2024 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 Steve Smith, Commissioner Harper Donahue IV, Executive Secretary Elizabeth Moore, Administrative Support Specialist
Commission Represented By:	Patrick McClain, Assistant City Attorney
Appellant Represented By:	Himself
Department Represented By:	Andrew Simons, Human Resources Administrator, DPW
Witnesses:	Dan Thomas, Administrative Services Director, DPW Donald Laster, Safety Supervisor, DPW Keith Chambliss, Appellant

ISSUE

The issue is whether there was just cause for the action taken by the Department in accordance with Wis. Stat. § 63.43.

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

FINDINGS OF FACT

1. Appellant was first employed by the City as a City Laborer (Seasonal) with the Department of Public Works on May 5, 2014.
2. Appellant was promoted to Sewer Crew Leader on June 18, 2017.
3. DPW Standard Work Rule 1.28 prohibits employees from reporting to work “under the influence” or “impaired” by alcohol or controlled substances.
4. The rules define the phrase “under the influence” to include being at work with a prohibited substance in one’s system.
5. All DPW employees are subject to reasonable suspicion testing for alcohol and controlled substances.
6. Under Rule 1.28, a first violation of the rule will result in a 10-day suspension.
7. After completing the suspension, an employee must also complete a return to work evaluation and remain subject to follow-up testing for at least 12 months.
8. Rule 1.28 further states that a second violation of the rule will result in discharge.
9. On November 7, 2023, Appellant was given a reasonable suspicion alcohol test.
10. That test returned a positive result for alcohol, with Appellant’s blood exhibiting a .079 blood alcohol content (“BAC”).
11. In accordance with DPW Standard Work Rule 1.28, Appellant was suspended for 10 days effective November 8, 2023.
12. Appellant completed the necessary return to work evaluation.

13. Pursuant to DPW Standard Work Rule 1.28, Appellant remained subject to follow-up testing.
14. On February 26, 2024, Appellant was given a follow-up alcohol test.
15. That test returned a positive result for alcohol, with Appellant's blood exhibiting a .045 blood alcohol content ("BAC").
16. On February 26, 2024, the Appellant was notified of a pre-discharge hearing scheduled for February 29, 2024.
17. The pre-discharge notice charged Appellant with failing to comply with departmental work rules—specifically DPW Standard Work Rules 1.21 (Rules of Conduct - Misconduct), 1.28 (Alcohol and Controlled Substances), and 1.42 (Driver's License Policy/CDL License Policy)—in violation of City Service Rule XIV, Section 12, paragraph Q.
18. A pre-discharge meeting was held on February 29, 2024.
19. Mr. Chambliss was discharged from City Service on March 1, 2024 for violating City Service Rule XIV, Section 12, paragraph Q, as specified in the pre-discharge notice.
20. A timely appeal was filed by the Appellant on March 4, 2024.
21. An appeal hearing was held on Tuesday, May 21, 2024.
22. At the hearing, DPW Safety Supervisor Donald Laster testified that the alcohol testing device used to test Appellant was appropriately calibrated on February 26, 2024.
23. DPW Administrative Services Director Dan Thomas testified that he is not aware of any instance in which DPW deviated from Rule 1.28's discharge requirement for a second positive drug or alcohol test.

CONCLUSIONS OF LAW

1. The Appellant was an employee holding a classified position in the Milwaukee Health Department, the appointing authority within the meaning of Sec. 63.43, Wis. Stats., and City Service Commission Rules I and XI.

2. The Department demonstrated by a preponderance of the evidence that Appellant failed to comply with DPW Standard Work Rules—most prominently Rule 1.28 regarding alcohol and controlled substances—in violation of City Service Rule XIV, Section 12, paragraph Q.
3. Based on the evidence in the record, the Department demonstrated by a preponderance of the evidence that there was just cause to discipline the Appellant.
4. Based on the evidence in the record, the Department demonstrated by a preponderance of the evidence that there was just cause to discharge the Appellant.

ORDER

By unanimous vote of the Board, the demotion of Appellant on March 1, 2024 is affirmed.

Dated and signed at Milwaukee, Wisconsin, this 11th day of June, 2024.

FRANCIS BOCK, PRESIDENT