

## **STIPULATED MATTERS**

The parties have stipulated to the following:

1. The Appellant, Jason P. Rembalski, was first employed by the City as a City Laborer Seasonal with the Department of Public Works on June 3, 1996.
2. Mr. Rembalski was promoted to Electrical Mechanic Apprentice on January 5, 2014. On June 17, 2018, Mr. Rembalski was promoted to Municipal Services Electrician.
3. Mr. Rembalski was discharged from City Service on December 10, 2022, holding the title of Municipal Services Electrician.
4. A timely appeal was filed by the Appellant on December 13, 2022.

## **ISSUE**

The issue is whether or not there was just cause for the action taken by the Department in accordance with sec. 63.43, Stats.



# DISCHARGE NOTICE

**Distribute a copy to:**

- Employee
- Employee Representative
- Department File
- Employees' Retirement System
- Dept. of Employee Relations – send within 48 hours to [DERpersonnelforms@milwaukee.gov](mailto:DERpersonnelforms@milwaukee.gov)

Date: 12/9/2022  
Rec#: 33093

Employee:	REMBALSKI, JASON P	Employee ID No.:	010155
Department:	DPW-INFRASTRUCTURE-ELECTRICAL	Race:	W
		Gender:	Male
Division:		Div. No.:	5237
		Payroll Loc. No.:	523 79
Job Title:	ELECTRICAL WORKER	Immediate Supervisor:	Donald Laster

In accordance with City Service Commission Rules, you are hereby discharged effective at 10:30 (am) on 12/09/2022 (date) for violating Rule XIV, Section 12, Paragraph Q of the City Service Rules (additional departmental rules may be referenced as applicable). You have three days from the receipt of this notice to file an appeal. See Right of Appeal information below.

**I. Description of Offense:**

On May 26, 2022, you were tested under the City of Milwaukee Drug and Alcohol Testing Program for a Random Drug and Alcohol Test. On June 5, 2022, the Department of Public Works – Administrative Services Division – Safety Section was notified that you had a positive test result for cocaine. A first positive under the DPW Drug and Alcohol Program required you to serve a 10-day suspension. You also successfully completed the Substance Abuse Program (SAP) and Return to Duty Test. You were advised of subsequent Follow up testing. Additionally, you were informed that a second violation of the Drug and Alcohol Policy would result in discharge. On November 17, 2022 you were tested under the City of Milwaukee Drug and Alcohol follow up testing program. On November 22, 2022, Safety Section was notified that you had a positive drug test result for cocaine. You subsequently requested for a split sample specimen test. On December 5, 2022, Safety Section was notified that your split sample specimen test re-confirmed a positive result for cocaine. This is a 2nd violation of the DPW Drug and Alcohol Policy. You are hereby Discharged. Note: In accordance with Federal Department of Transportation (DOT) guidelines related to Commercial Driver's License and Commercial Learner's Permit, you will be ineligible to perform safety sensitive functions until you have been evaluated by a Substance Abuse Professional (SAP) and have begun successful participation in a rehabilitation program (if one is recommended to you). You may also be required to pass a Return to Duty test and have a documented follow-up testing schedule. Please note you may be responsible for any costs associated with this process. To learn more visit the DOT Clearinghouse

**II. Previous Disciplinary Actions including Warning Letters:**

See enclosed documents

<b>DATES REQUIRED:</b> 1. Date of investigatory meeting: <u>12/9/22</u> 2. Date Discharge notice was provided to the employee or notice was mailed to employee: Date: <u>12/9/22</u>	Reporting Authority Signature:
	Please print name: Donald Laster
<b>RIGHT OF APPEAL:</b> Regularly appointed Civil Service employees (those who have completed their probationary period) may appeal in writing to the City Service	Title: DPW safety supervisor
	Date: <u>12/9/2022</u>
Appointing	



Commission **within three days** of receipt of this notice. Employees of a department under the supervision of a board or commission of three or more members must appeal to that board or commission.

**NOTE:** If you have been issued an employee identification card, it must be turned in to your supervisor before your final paycheck will be released.

Authority Signature:	<small>DocuSigned by:</small> <i>Dan Thomas</i> <small>FA7CE1AF35AD4CA...</small>
Please print name:	Dan Thomas
Title:	Adm. Services Director
Date:	12/9/2022





## City Service Commission APPEAL OF DISCIPLINARY ACTION FORM

Pursuant to Rule XIV (Discharge, Appeal, Hearing), Section 2 of the Rules of the Board of City Service Commissioners (the Commission), a regularly appointed employee who has passed his/her probationary period may appeal a discharge, reduction (involuntary demotion), a second suspension within six months of a former one or any suspension exceeding fifteen working days in length. The time limit to file an appeal ends at 4:45 p.m. on the third business day following receipt of written notification of the disciplinary action. An appeal is filed when it is received and time-stamped by the Department of Employee Relations on behalf of the Commission. The Department of Employee Relations is located at City Hall, 200 East Wells Street, Room 706, Milwaukee, WI 53202-3515. An appeal may also be filed by electronic transmission to the following email address: [klbiern@milwaukee.gov](mailto:klbiern@milwaukee.gov) or by FAX to the following number: (414) 286-0203.

Appellants are encouraged to review the **Guidelines for Disciplinary Appeals to the City Service Commission** located at: <http://city.milwaukee.gov/der/csc/FormsDocs>

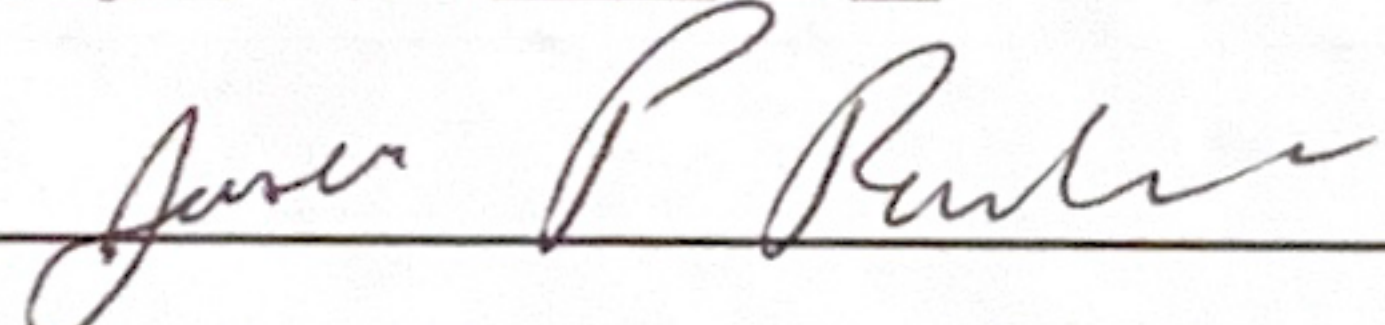
**Please complete the form below to appeal a qualifying disciplinary action.**

I appeal the following disciplinary action, pursuant to Rule XIV, Section 2 of the Rules of the Board of City Service Commissioners (*check one*):

- Discharge
- Reduction in classification (involuntary demotion)
- Second suspension within six months of a former one (Date of 1<sup>st</sup> suspension: \_\_\_\_\_)
- Suspension exceeding 15 days

I received written notification of the disciplinary action that I am appealing on: 12-13-22. Please attach the disciplinary notice for the action that you are appealing. **Please attach a brief statement indicating the basis of your appeal.**

This appeal is dated this 16<sup>th</sup> day of Dec., 2022.

Signature of appellant: 

Name of appellant (please print):	Jason P. Rembalski
Appellant's Department/Division:	Electrical Service
Appellant will be represented by:	Attorney - Mark Schoenfeldt
Contact information (phone number): (email address):	[REDACTED]
<i>Appellant's Contact Information:</i>	
Primary phone number:	[REDACTED]
Address:	[REDACTED]
Email:	[REDACTED]



Please write a brief statement indicating the basis of your appeal (attach to Form):

I was on numerous medications between November 11<sup>th</sup> 2022 and November 18<sup>th</sup> 2022 which could indicate a strong possibility that these medications resulted in a false positive of the random drug test on November 17<sup>th</sup> 2022.

## WITNESS AND EXHIBIT LIST

THE FOLLOWING WITNESSES MAY TESTIFY:

<u>Name</u>	<u>City or Non-City Employee and/or Relationship</u>
Dan Thomas	Administrative Services Director, DPW
Donald Laster	Safety Supervisor, DPW
MaryJo Capodice	Medical Review Officer, USA Mobil Drug Testing
Dr. Janelle Jaworski	Chief Medical Review Officer
Attorney Michael Schoenfeldt	Representing Appellant
Jason P. Rembalski	Appellant

THE FOLLOWING EXHIBITS HAVE BEEN INSPECTED, MARKED AND ARE ATTACHED HERETO (Example: A-1 for Appellant; AU-1 for Appellant Unstipulated; D-1 for Department; DU-1 for Department Unstipulated; J-1 for Joint):

<u>No.</u>	<u>Date</u>	<u>Description</u>
J-1	12.9.2022	Discharge Notice, Mr. Rembalski (2 pgs.)
J-2	12.16.2022	Appeal of Disciplinary Action Form (2 pgs.)
DU – 1		Article “Cannabinoid Hyperemesis Syndrome” (1pg.)
DU – 2		Article “How Long Does Amoxicillin Take to Work?” (1 pg.)
DU – 3		Article “How Long Does Amoxicillin Stay in Your System” (1pg.)
D-1	6/3/2022	Specimen Result Certificate Positive Drug Test (1pg.)
D-2	6/6/2022	Attachment 1 Pre-Disciplinary Hearing Notice (2 pgs.)
D-3	6/9/2022	Attachment 2 Suspension Notice (1pg.)
D-4	6/20/2022	Attachment 3 Notification Procedure Check List (1pg.)
D-5	11/22/2022	Attachment 4 Second Positive Drug Test Results (1pg.)
D-6	12/5/2022	Attachment 5 Second Positive Verified Split Test-reconfirmed (1pg.)
D-7	12/2/2022	Attachment 6 Pre-Discharge Hearing Notice Letter (2 pgs.)
D-8		Attachment 7 DPW Standard Work Rule 1.27 (2 pgs.)
D-9		Attachment 8 DPW Standard Work Rule 1.40 (2 pgs.)
D-10	12/14/2020	Attachment 9 Department and Division Work Rule Sign-off (1 pg.)

- A U-1 Article "False Positive Drug Test: What Does it Mean For You?" (9pgs.)
- AU- 2 Article "Drugs That Can Cause False Positive Drug Tests" (5 pgs.)
- AU-3 Article "What Can Cause False Positive Drug Tests" (9 pgs.)
- AU-4 Article "These 10 Medications Can Cause a False Positive on Drug Tests (6 pgs.)
- AU-5 Article "Naproxen and Drug Screen False Positive (5 pgs.)
- AU-6 Article "Can a Drug Test Lead to a False Positive?" (10 pgs.)
- A-1 Medication List (2 pgs.)