

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

IN THE MATTER OF
DESHON L. SMITH
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 Deshon L. Smith ("Appellant") challenging his discharge from the position of Electrical Worker, Department of Public Works ("DPW" or "Department") on December 22, 2025.

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 XIV, Section 7, on Friday, March 6, 2026 at 9:00 a.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
Heidi Wick Spoerl, Commissioner
Jackie Q. Carter, Executive Secretary
Kristin Urban, Staffing Services Manager
Elizabeth Moore, Administrative Support Specialist

Commission Represented By: Lauri Rollings, Assistant City Attorney

Appellant Represented By:

Department Represented By: Andrew Simons, Infrastructure Department Administrator, DPW
Witnesses: Donald Laster, DPW Safety Supervisor
Joe Glassman, Substance Abuse Professional
Rudy Gutierrez, Electrical Services Manager
Mark MacRae, Electrical Services Operations Manager
Josh Stratton, Human Resources Representative
Dan Thomas, Administrative Services Director, DPW
Desilynn Smith, Executive Director, United Garden Homes, Inc.
Roxie Brown, Wellness Helper, United Garden Homes, Inc.
Deshon L. Smith, Appellant

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.

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 with the Department of Public Works on May 3, 2021.
2. Appellant was promoted to the position of Electrical Worker with the Department of Public Works on July 7, 2024
3. The Electrical Worker position required a Commercial Driver's License and was required to submit to drug testing protocols under the City of Milwaukee Department of Public Works Drug and Alcohol Testing Program ("Drug and Alcohol Testing Program").
4. On July 9, 2024, Appellant was subjected to a random drug test under Drug and Alcohol Testing Program.
5. The temperature for his specimen was out of range and the testing facilitator informed Appellant he would be required to take another test with an observed collection.
6. Appellant stated he did not want anyone observing him while he provided a sample.
7. Appellant was informed that her refusal to retest would be considered a positive test result.
8. Appellant confirmed he was refusing an observed collection.

9. On Wednesday July 10, 2024, a pre-disciplinary hearing was held for Appellant's violation of City Service Commission Rule XIV, Section 12, Paragraphs J and Q, based on Appellant's failure to comply with DPW Standard Work Rules 1.21, 1.28, and 1.42 (Rules of Conduct, Alcohol and Controlled Substance, Driver's License Policy/CDL License Policy).

10. The Department advised Appellant at that hearing he was subject to a mandatory 10-day suspension in accordance with the Drug and Alcohol Testing Program, would be required to be evaluated by a substance abuse professional (SAP), successfully complete a follow-up drug and alcohol program if recommended by the SAP, and provide a negative result on a return-to-duty drug and alcohol test before being allowed to resume his duties.

11. Appellant was also informed at that hearing that a second violation of the Drug and Alcohol Testing Program would result in discharge.

12. On December 19, 2025, Appellant was notified he was to be tested for drugs and alcohol as part of his follow-up drug and alcohol program.

13. Appellant stated believed he did not need to take the test because he had completed his follow-up drug and alcohol program.

14. Appellant was informed that his refusal to take a test would be considered a second violation of the Drug and Alcohol Testing Program that could result in discharge.

15. Appellant again refused to take the test.

16. On December 22, 2025, a pre-discharge hearing was held for Appellant's violation of City Service Commission Rule XIV, Section 12, Paragraphs J and Q, based on Appellant's failure to comply with DPW Standard Work Rules 1.21, 1.28, and 1.42 (Rules of Conduct, Alcohol and Controlled Substance, Driver's License Policy/CDL License Policy).

17. The Department offered Appellant an opportunity to resign in lieu of discharge.

18. Appellant refused the offer and was discharged.

19. Appellant filed a timely appeal.

20. At the appeal hearing for this matter, multiple witnesses testified that a refusal to test

is considered a violation of the Drug and Alcohol Testing Program.

CONCLUSIONS OF LAW

1. Appellant was an employee holding a classified position in DPW, the appointing authority within the meaning of Sec. 63.43, Wis. Stats., and the City Service Commission Rules. The Department demonstrated by a preponderance of the evidence that Appellant violated City Service Commission Rule XIV, Section 12, Paragraphs J and Q, based on Appellant's failure to comply with DPW Standard Work Rules 1.21, 1.28, and 1.42 (Rules of Conduct, Alcohol and Controlled Substance, Driver's License Policy/CDL License Policy).

2. Based on the preponderance of the evidence, the Department did have just cause to discipline Appellant.

3. Based on the preponderance of the evidence, there was just cause to discharge the Appellant.

ORDER

By unanimous vote of the Board, the discharge of Appellant on December 22, 2025, is affirmed.

Dated and signed at Milwaukee, Wisconsin, this 27th day of March, 2026.

FRANCIS BOCK, PRESIDENT