

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

Employee:	Smith, Deshon Lynn	Employee ID No.:	<u>034966</u>
Department:	DPW-INFRA-TRANSP-OPS	Race:	BLACK
		Gender:	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
Division:	INFRA	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 0700 (am / pm) on 12/22/2025 (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:

Re: Violation of DPW Standard Work Rules 1.21, 1.28, 1.42 & City Service Rule XIV, Section 12, Paragraph Q: -- On July 9, 2024 you were tested for a Random drug test under the city of Milwaukee Drug and Alcohol testing Program. The temperature of your provided specimen was out of range. The testing facilitator informed you of this and informed you that a re-test would have to be done with an observed collection. You indicated that you did not want anyone looking at you while providing a sample. DPW-Safety then spoke with you and reiterated to you that a refusal would be considered a positive due to DOT regulations. DPW-Safety then explained the chain of events that occurs when a positive is received, including that a return to duty and all subsequent follow up testing would be observed collections. You again confirmed that you were refusing an observed collection. On December 19, 2025 you were notified that you were to be tested as part of your follow-up program. You stated to your manager that you didn't need to take the test as you believed you had completed your program. This is a Refusal to Test and considered a 2nd violation of the City of Milwaukee Drug and Alcohol Program. Your job requires a Commercial Driver's License. You have violated Federal Department of Transportation regulation and DPW Standard Work Rules and Policies. A first positive under the DPW Drug and Alcohol Program/Policy requires you to serve a 10-day suspension and a second violation will result in Discharge. During a mandatory Pre-Discharge Hearing on December 22, 2025, you were advised that the City of Milwaukee, Department of Public Works intended to pursue a discharge action due to your 2nd violation. Furthermore, you were given an option to Resign in Lieu of Discharge, and you preferred to receive discharge. Therefore, you are hereby discharged due to a 2nd Violation of City of Milwaukee Drug and Alcohol Policy. Note: In accordance with Federal Department of Transportation 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). The SAP may require you to pass a Return to Duty Test and have a documented follow-up testing schedule. You may be responsible for any cost associated with this process. During an interaction with management immediately following your refusal to comply with the follow-up-testing requirement, you disclosed that you were aware of your SAP determined number of tests that you were assigned to complete and the amount of time your SAP determined that you should be in a follow-up program. You informed management in a matter-of-fact manner that you were required to participate in exactly six tests in a twelve-month period. You stated that the December 19, 2025 follow-up test constituted a seventh test and therefore you refused to comply with the follow-up test. Further, on more than one occasion you stated that the federal guidelines prohibited the City of Milwaukee from conducting more tests than those prescribed by the SAP. DOT Rule 49 CFR Part 40 Section 40.307 – Subpart O – Letter G states, in part, “As the employer, SAP, or other service agent, you must not provide to the employee a copy of their drug and/or alcohol follow-up testing schedule prescribed by the SAP. No employer, SAP, or other service agent will indicate to the employee what the frequency or duration of the employee's follow-up testing schedule will be.” You being aware of the number of prescribed follow-up test schedule is a violation of

DOT regulation. During the Pre-Discharge Hearing, you disclosed that the SAP you worked with, Desilynn Smith, was your mother. In referencing the Garden Homes Inc. webpage, it was identified you appear to be a listed employee of the organization. Under the "Crisis Intervention Team", you are identified as the "Manager - Fire Arm Instructor". Your picture accompanies your position title. Having your mother serve as your SAP is highly inappropriate. We intend to notify the DOT Clearinghouse of our ethical concerns and objections. We maintain the position that your mother, the SAP, would be unable to assign their child and client a fair program. It is our belief that you may have received a lighter assigned program due to the nature of the conflicting relationship. According to DOT Rule 49 CFR Part 40 Section 40.299 – Subpart O – Letter B, "In all cases, the SAP must refer the employee to an appropriate education and/or treatment program. SAPs cannot refer an employee requiring assistance to their own private practices, or to a person or organization from which they receive payment, or to a person or organization in which they have a financial interest." You received counseling treatment, associated with the SAP process, from Roxie Brown. This individual is listed on the Garden Homes Inc. webpage as a member of the "Mental Wellness Team". This circumstance also appears to be a violation of DOT FMCSA policy. Since 8/5/2024, you missed a total of 800 hours, which amounts to 100 work days. These occurrences include, vacation, sick leave, FMLA, etc. As a result of these breaks in service, the 12-month period of time, based on actual service and your return to work on each of these occasions, is 12/26/2025. Management followed the prescribed testing plan with the intent to complete the remaining follow-up tests to ensure SAP requirements were met. Per DOT Rule 49 CFR Part 40 Section 40.307 – Subpart O, "the requirements of the SAP's follow-up testing plan "follow the employee" to subsequent employers or through breaks in service."

II. Previous Disciplinary Actions including Warning Letters:

See attached

DATES REQUIRED:

1. Date of investigatory meeting: **12/22/2025**
2. Date Discharge notice was provided to the employee or notice was mailed to employee:
Date: **12/23/2025**

RIGHT OF APPEAL:

Regularly appointed Civil Service employees (those who have completed their probationary period) may appeal in writing to the City Service 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.

Reporting Authority Signature:

DocuSigned by:

Donald Laster

812B601546B5480...

Please print name:

Donald Laster

Title:

DPW Safety Sup.

Date:

12/23/2025

Appointing Authority Signature:

Signed by:

Dan Thomas

FATCE1AP35AD4CA...

Please print name:

Dan Thomas

Title:

Adm. Services Director

Date:

12/23/2025





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: elmoor@milwaukee.gov by FAX to the following number: (414) 286-0203, Attention: Elizabeth Moore.

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 1st suspension: _____)
- Suspension exceeding 15 days

I received written notification of the disciplinary action that I am appealing on: _____. 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 1st day of January, 2026.

Signature of appellant: _____

Name of appellant (please print):	Deshon L. Smith
Appellant's Department/Division:	DPW-INFRA-TRANSP-OPS
Appellant will be represented by:	Attorney William F. Sulton
Contact information (phone number): (email address):	Phone: 414-477-0088 Email: william@sultonlaw.com
<i>Appellant's Contact Information:</i>	
Primary phone number:	
Address:	
Email:	

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

My termination was based on invalid DOT allegations, unlawful process, and retroactive record fabrication.

Key Errors

1 Invalid UA & refusal

The July 9, 2024 test did not meet DOT temperature-verification and observed recollection requirements (49 CFR §40.65). No lawful refusal occurred (§40.191).

2 No Clearinghouse compliance

The City never reported any violation within 3 business days (§382.705(b)), then retroactively entered three violations after termination—an unlawful act.

3 No SAP or RTD pathway

The City ordered me to find a SAP while blocking the Clearinghouse entry required to do so (§§40.287, 40.305).

4 Misuse of follow-up testing

Follow-up tests only exist after a SAP plan is active. There was none. The City's entries are false.

5 Retaliation

Adverse actions escalated after protected challenges to DOT compliance and SAP communications.

Remedy Requested

- Vacate the termination
- Remove the Clearinghouse violations
- Restore pay/benefits or provide lawful RTD process
- Expunge all discipline based on the invalid DOT claims