

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MICHELLE KIELLEY, Appellant,

v.

WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case 207
No. 72064
PA(adv)-309

Decision No. 34106-A

Appearances:

Jim Parrett, Field Representative, AFSCME Council 24, N14436 17th Avenue North, Necedah, Wisconsin, appearing on behalf of the Appellant.

Laura Amundson, Labor Relations Specialist, Office of State Employment Relations, 101 East Wilson Street, Madison, Wisconsin 53707-7855, appearing on behalf of the Respondent.

ORDER GRANTING MOTION TO DISMISS

Pursuant to Sec. 230.44(1)(c), Stats., Michelle Kielley filed an appeal with the Wisconsin Employment Relations Commission on April 10, 2013 seeking review of a written reprimand. On June 13, 2013, Department of Corrections filed a motion to dismiss arguing that the Commission lacks jurisdiction over the subject matter of the appeal. Kielley's representative, Jim Parrett, responded to the motion and the matter was ripe for decision on July 22, 2013.

Having considered the matter, the Commission makes and issues the following

ORDER

The motion to dismiss is granted.

Given under our hands and seal at the City of Madison, Wisconsin, this 13th day of August, 2013.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner

DEPARTMENT OF CORRECTIONS (Kielley)

MEMORANDUM ACCOMPANYING ORDER GRANTING MOTION TO DISMISS

Kielley filed her written reprimand appeal pursuant to Section 230.44(1)(c), Stats. That statute only gives the Commission authority to review the following disciplinary actions:

If an employee has permanent status in class. . .the employee may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission, if the appeal alleges that the decision was not based on just cause.

Because written reprimands are not among the disciplinary actions listed in Sec. 230.44(1)(c), Stats., we do not have jurisdiction over Kielley's appeal of her written reprimand. See Anand v. DHSS, Case No. 81-438 PC (Pers. Comm., 1/8/1982) ("The absence of 'reprimand' from the list of disciplinary actions expressly subject to the Commission's jurisdiction indicates that the legislature intended appeals from such transactions to be excluded as to that provision.") Therefore, we have granted the motion to dismiss

Dated at Madison, Wisconsin, this 13th day of August, 2013.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner

