

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LOUIS JORDAN, et al., Appellants,

vs.

DEPARTMENT OF HEALTH SERVICES, Respondent.

Case 74
No. 72108
PA(grp)-26

DECISION NO. 34128-A

Appearances:

Louis Jordan, 317 Knutson Drive, Madison, Wisconsin 53704, appearing on behalf of himself.

Michael Soehner, Labor Relations Specialist – Chief, Wisconsin Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of Respondent Department of Health Services.

ORDER GRANTING MOTION TO DISMISS

On May 13, 2013, Louis Jordan and others filed an appeal with the Wisconsin Employment Relations Commission asserting that Respondent Department of Health Services was improperly paying Jordan and others straight time instead of time and one-half for certain work. Respondent filed a motion to dismiss the appeal asserting that the Commission lacks jurisdiction to review the matter. The parties thereafter filed written argument and the matter is now ripe for Commission action.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

ORDER

The appeal is dismissed.

Dated at Madison, Wisconsin, this 11th day of April 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

MEMORANDUM ACCOMPANYING ORDER GRANTING MOTION TO DISMISS

Section 230.04 (14), Stats., provides that the State shall by rule establish a state employee grievance procedure relating to conditions of employment. Section 230.45(1)(c), Stats., provides that the Commission shall serve as the final step in that grievance procedure.

Chapter ER 46.07 is part of the state employee grievance procedure and provides, in pertinent part, that:

(2) An employee may not use this chapter to grieve:

(k) Any matter related to wages, hours of work and fringe benefits.

Jordan contends that the Respondent is violating the State's compensation plan by failing to pay overtime for certain work. Because the appeal relates to "wages," it cannot be grieved and, therefore, we lack jurisdiction under § 230.45(1), Stats., over the appeal. *Loomis v. Wis Personnel Commission*, 179 Wis.2d 25 (Ct. App. 1993). We have dismissed the appeal on that basis.

Dated at Madison, Wisconsin, this 11th day of April 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner