

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CAROL HOLTERMAN, Appellant,

vs.

DEPARTMENT OF CORRECTIONS, Respondent.

Case 232
No. 72692
PA(adv)-358

DECISION NO. 34683

Appearances:

Carol Holterman, 1309 Putnam Avenue, Janesville, Wisconsin 53546, appearing on her own behalf.

Michael Soehner, Wisconsin Office of State Employment Relations, Labor Relations Specialist – Chief, 101 East Wilson Street, Madison, Wisconsin 53707-7855, appearing on behalf of Respondent Department of Corrections

**ORDER DISMISSING APPEAL FOR LACK OF
SUBJECT MATTER JURISDICTION**

On October 2, 2013, Carol Holterman filed an appeal with the Wisconsin Employment Relations Commission asserting that she was discharged without just cause during a probationary period. Later that day, Respondent filed a motion to dismiss asserting that the Commission lacks jurisdiction over the appeal. Holterman filed a response to the motion on October 28, 2013.

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

ORDER

The appeal is dismissed.

Signed and sealed at Madison, Wisconsin, this 3rd day of January 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION



James R. Scott, Chairman



Rodney G. Pasch, Commissioner

**MEMORANDUM ACCOMPANYING ORDER DISMISSING APPEAL FOR
LACK OF SUBJECT MATTER JURISDICTION**

Section 230.44(1)(c), Stats., gives the Commission jurisdiction over an employee discharge if the employee has “permanent status in class.” Where, as here, an employee is serving a probationary period when discharged, the Commission does not have jurisdiction to review the discharge, because an employee serving a probationary period does not have “permanent status in class.” Board of Regents v. Wisconsin Personnel Commission, 103 Wis.2d 545, 2309 N.W.2d 366 (Ct. App. 1981). Therefore, we have dismissed the appeal.¹

Signed at Madison, Wisconsin, this 3rd day of January 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION



James R. Scott, Chairman



Rodney G. Pasch, Commissioner

¹ Holterman asserts that the discharge was discriminatory and violated her rights as a whistleblower. As Respondent notes, she is free to pursue that claim with an agency that, unlike the Commission, has jurisdiction over such matters. Holterman also contends that her discharge was based on improper actions by State employees. Section 230.44(1)(c), Stats., does not give us jurisdiction to consider these contentions. See also Stuchlik v DOC, Dec. No. 31353 (WERC, 6/05).