

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DAVID WINK, Appellant,

vs.

DEPARTMENT OF CORRECTIONS, Respondent.

Case 213
No. 72110
PA(adv)-320

DECISION NO. 34978

Appearances:

Troy Bauch, Field Representative, Wisconsin State Employees Union, 1190 Ruffedt Road, Cornell, Wisconsin, 54732, appearing on behalf of David Wink.

Paege Heckel, 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 Corrections.

ORDER GRANTING MOTION TO DISMISS

On May 20, 2013, David Wink filed an appeal with the Wisconsin Employment Relations Commission pursuant to § 230.44(1)(c), Stats., asserting that he had been disciplined and denied pay by the Wisconsin Department of Corrections without just cause. On June 25, 2013, Respondent Department of Corrections filed a motion to dismiss the appeal asserting that the Commission lacks jurisdiction over this appeal. The parties thereafter filed written argument and the motion 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 230.44(1)(c), Stats., provides:

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.

Wink received a written reprimand for an unexcused absence and did not receive pay for the period of absence. Wink contends that his absence was in fact excused and that he should not have been disciplined or lost pay.

Section 230.44(1)(c), Stats., does not give us jurisdiction over written reprimands or over disputes as to whether an absence should have been excused. Therefore, we have dismissed the appeal.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner