

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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ROBERT SCHALLOCK, Appellant,

vs.

DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0005

Case Type: PA

DECISION NO. 35432

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**Appearances:**

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

David A. Hart, Office of State Employment Relations, 101 E. Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin, appearing on behalf of Respondent Department of Corrections.

This appeal was filed with the Wisconsin Employment Relations Commission on August 8, 2014. Apparently, the Appellant Robert Schallock was placed on an unpaid administrative leave for a period of nine months based upon a medical evaluation. The Respondent Department of Corrections (“DOC”) has moved to dismiss the appeal asserting a lack of subject matter jurisdiction. Both sides submitted written argument.

**DECISION AND ORDER DENYING MOTION TO DISMISS**

On a motion to dismiss all factual allegations made by an appellant are deemed admitted. Schallock asserts that he was in effect laid off from his position because he was placed on an unpaid leave of absence. The labels placed on the action taken by an employer do not control our jurisdiction. We made that clear in *Walsh v. DOC*, Decision No. 35041 (WERC 2014), a decision which neither side cited in their written arguments. As we noted in *Walsh*, while the just cause standard for reviewing an economic layoff is different than that used in a disciplinary matter, conceptually an open-ended leave of absence is no different than a layoff.

NOW, THEREFORE, it is

**ORDERED**

The motion to dismiss is denied.

Signed at the City of Madison, Wisconsin, this 27th day of October 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner