

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JAMIE GLEISNER, Appellant,

vs.

DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0046

Case Type: PA

DECISION NO. 35740

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**Appearances:**

Troy Bauch, Field Representative, Wisconsin State Employees Union, 1190 Ruffedt Road, Cornell, Wisconsin, appearing on behalf of Appellant Jamie Gleisner.

Amesia N. Xiong, Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin, appearing on behalf of Respondent Department of Corrections.

**DECISION AND ORDER GRANTING MOTION TO DISMISS**

This is one of a series of challenges to discipline imposed upon Appellant Jamie Gleisner. On May 7, 2014, Gleisner was provided with written notice of a three-day disciplinary layoff from his position at the Department of Corrections' Chippewa Valley Correctional Treatment Facility. The suspension was imposed on June 2 through 4, 2014. Gleisner believed that he filed a grievance challenging the discipline but was advised that he had not done so. Gleisner filed the grievance on June 16, 2014. On July 8, 2014, DOC responded to the grievance noting it was denying the grievance and noting that it was untimely.<sup>1</sup> The matter proceeded through the grievance process and was appealed to the Wisconsin Employment Relations Commission. The DOC has moved to dismiss based upon the alleged failure to timely file the Step 1 grievance. It submitted a brief and various exhibits in support of its position. Gleisner's representative was given an opportunity to respond and has not done so.

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<sup>1</sup> Per § 230.44(1)(c), Stats., prior to filing an appeal to the Commission from specified disciplinary actions, the employee must utilize the State employee grievance procedure.

Clearly Gleisner did not file his initial grievance within the 30-day time limit required under the handbook procedure. The time limits are in the nature of statutes of limitation and are subject to equitable modification. We have been critical of the confusing procedural hurdles that are contained in the handbook grievance procedure.<sup>2</sup> Here, however, we have no indication that equity would mandate a different result as no submission was submitted on behalf of Gleisner.

**ORDER**

The motion to dismiss is granted and the appeal of the three-day suspension of Jamie Gleisner is dismissed.

Signed at the City of Madison, Wisconsin, this 17th day of June 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner

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James J. Daley, Commissioner

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<sup>2</sup> An equitable approach to applying procedural rules to pro se litigants is fully warranted by *Rutherford v. Labor and Industry Review Commission*, 2008 WI App. 66, ¶27, 309 Wis.2d 498, 513, 752 N.W.2d 867, 904. This is particularly true on situations where one of the litigants is making the rules.