

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JOSEPH J. GORDON, Appellant,

vs.

DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0044

Case Type: PA

DECISION NO. 35767

Appearances:

Joseph J. Gordon, 3640 E. Morris Avenue, Cudahy, Wisconsin, appearing on behalf of himself.

David A. Hart, Department of Administration, Division of Personnel Management, 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

On February 11, 2015, Appellant Joseph Gordon was informed that his employment with Respondent Department of Corrections was terminated based upon purported violations of the work rules maintained by DOC. Gordon filed an appeal directly with the Commission which was received on March 19, 2015. There was apparently no resort to the grievance procedure. On June 16, 2015, DOC filed a motion to dismiss and supporting brief and the affidavit of James Underhill based upon a failure to exhaust the grievance procedure. Gordon was given an opportunity to respond but has not done so. After review of the brief and the supporting documents as well as the file itself the Commission issues the following:

DECISION

Section 230.44(1)(c), Stats., limits our role in the process of reviewing the enumerated disciplinary matters to serving “as the final step in the state employee grievance procedure established under s. 230.04(14), if the appeal alleges that the decision was not based on just cause.” Obviously, we cannot serve as the “final step” if there is no resort to the grievance procedure. That leaves us with no alternative but to dismiss the matter.

ORDER

The appeal of Joseph Gordon is dismissed.

Signed at the City of Madison, Wisconsin, this 29th day of July 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner