

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MICHELLE L. MOSLEY, Appellant,

vs.

STATE OF WISCONSIN, DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0023

Case Type: PA

DECISION NO. 36130

Appearances:

Michelle L. Mosley, 3055 N. 58th Street, Milwaukee, Wisconsin, appearing on behalf of herself.

Michael Gentry, Department of Administration, 101 E. Wilson Street, 10th Floor, Post Office Box 7864, Madison, Wisconsin, appearing on behalf of Respondent State of Wisconsin, Department of Health Services.

On October 19, 2015, Appellant Michelle L. Mosley filed an appeal with the Wisconsin Employment Relations Commission, pursuant to § 230.44(1)(c), Stats., challenging the termination of her employment with the State of Wisconsin, Department of Health Services. The Department has filed a motion to dismiss alleging that we lack jurisdiction. The issue has been briefed by the Department and a written response was received from Mosley.

DECISION AND ORDER DENYING MOTION TO DISMISS

Mosley's two-page grievance generally reflects her disagreement with the Department's decision to terminate her employment. It clearly utilizes the shotgun approach alleging a variety of claims under various state and federal laws. She does not, however, specifically reference the term "just cause" in her two-page appeal. That failure along with her reference to other specific statutory claims triggered the motion to dismiss.

Mosley is not represented and, accordingly, we must review her grievance liberally to discern whether she is in fact also challenging the question of whether there was just cause for discharge. In her response to the Department's motion, Mosley states that she was terminated

without just cause. She acknowledges that the Department had a rule in place that if employees are going to be late or absent they must call in at least one hour before the scheduled start time. Employees are given three “freebies” per rolling twelve month period but the fourth will result in discipline in the form of suspensions and eventually discharge. The rule seems imminently reasonable. The Department alleges the rule was correctly applied in this case and Mosley says it was not. That factual dispute needs to be resolved in a hearing.

What will not be resolved at a hearing before the Wisconsin Employment Relations Commission are Mosley’s various statutory claims which fall under the jurisdiction of other entities. Accordingly, we enter the following:

ORDER

The motion to dismiss is denied.

Signed at the City of Madison, Wisconsin, this 3rd day of December 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner