

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ANTHONY PEANDRO, Appellant,

vs.

STATE OF WISCONSIN, DEPARTMENT OF PUBLIC INSTRUCTION, Respondent.

Case ID: 291.0002

Case Type: PA

DECISION NO. 36328

Appearances:

Anthony Peandro, 311 South 5th Street, Delavan, Wisconsin, appearing on his own behalf.

Amesia N. Xiong, Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of State of Wisconsin, Department of Public Instruction.

DECISION AND ORDER DENYING MOTION TO DISMISS

Anthony Peandro, an employee of the Wisconsin Department of Public Instruction, was discharged from his employment at the Wisconsin School for the Deaf on February 16, 2016. Peandro worked as a Cook 2 at the facility. He filed a timely grievance but, at some point in time, prior to completing the grievance procedure, a direct appeal was filed with the Wisconsin Employment Relations Commission. The DPI has moved to dismiss asserting a lack of subject matter jurisdiction.

Clearly Peandro failed to satisfy conditions precedent to filing an appeal to the Commission. He asserts he was misled by a human resources employee of DPI.

We have been sharply critical of the unnecessarily complex grievance procedure which apparently rarely, if ever, resolves disputes. *Pflum v. DOC*, Dec. No. 35067 (WERC, 2014). In our view, all doubts should be resolved in favor of providing due process rights to discharged employees. There is no suggestion that Peandro attempted to intentionally bypass the grievance procedure or to gain any advantage. Accordingly, we will deny the motion to dismiss and direct that this matter be remanded to DPI with instructions to process the matter

through the second and third steps of the grievance procedure. If the matter is not resolved, it should be returned to the Commission for assignment for hearing.

ORDER

The appeal of Anthony Peandro shall be held in abeyance pending completion of the grievance process as set forth above.

Signed at the City of Madison, Wisconsin, this 11th day of April 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner