

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

AMANDA WATERMAN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0149

Case Type: PA

DECISION NO. 36361-A

Appearances:

Amanda Waterman, W10095 State Hwy 82, Elroy, Wisconsin, appearing on her own behalf.

Katharine Ariss, Attorney, Department of Corrections, 3099 E. Washington Avenue, Post Office Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On May 16, 2016, Appellant Amanda Waterman filed an appeal with the Wisconsin Employment Relations Commission, pursuant to § 230.44(1)(d), Stats., asserting that the State of Wisconsin Department of Corrections denied her a position at the New Lisbon Correctional Institution. The Commission assigned the appeal to Examiner Karl R. Hanson who conducted a hearing on August 22, 2016, in New Lisbon, Wisconsin.¹ The parties made oral arguments at the conclusion of the hearing.

On November 2, 2016, Examiner Hanson issued a proposed decision dismissing the appeal. No objections were filed and the matter became ripe for Commission consideration on December 5, 2016.

Being fully advised in the premises, the Commission makes and issues the following:

¹ This matter was consolidated for purposes of hearing with two other appeals brought by Waterman against the Department of Corrections.

FINDINGS OF FACT

1. Amanda Waterman is currently, and was both prior to and after February 21, 2016, employed by the State of Wisconsin Department of Corrections at the New Lisbon Correctional Institution as a correctional officer.

2. The Department of Corrections offered to assign Waterman to a certain correctional officer duty post at the New Lisbon Correctional Institution effective on February 21, 2016, but then revoked that offer.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction to review this matter pursuant to § 230.44(1)(d), Stats.

2. Assignment of Waterman, as a correctional officer, to a certain post at the New Lisbon Correctional Institution is not a “personnel action after certification which is related to the hiring process in the classified service.”

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The appeal is dismissed.

Signed at the City of Madison, Wisconsin, this 15th day of December 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Amanda Waterman brought an appeal before the Commission alleging that she was denied “a job” at the New Lisbon Correctional Institution (“NLCI”). In her appeal letter, she stated that she was offered a position at NLCI, and DOC subsequently revoked the offer. She alleges that DOC’s actions were improper.

Section 230.44(1)(d), Stats., provides that an employee may appeal “[a] personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion” Waterman has the burden to prove each element of her claim by a preponderance of the evidence.

The record in this matter establishes, without challenge from Waterman, that no “personnel action after certification which is related to the hiring process” ever took place. Waterman’s claim therefore must be dismissed.

Waterman sought to be assigned to the “Escort #39” post at NLCI. This is a duty post or work assignment for a correctional officer at NLCI. It is undisputed that no certification, as that term is defined in the administrative code, took place. The evidence is also undisputed that DOC’s offer to assign Waterman to the Escort #39 post at NLCI was not a hiring action. It was an offer for her to undertake a particular work assignment, among many, which may be performed by a correctional officer. Whether assigned to the Escort #39 post or not, Waterman remained a correctional officer under the same appointing authority.

DOC has the right to give correctional officers various work assignments (such as assigning one to a particular duty post). The fact that DOC has established an internal system for correctional officers to select vacant duty posts at an institution does not constitute a hiring process.

Waterman has not met and cannot meet her burden because no hiring process took place.

Signed at the City of Madison, Wisconsin, this 15th day of December 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner