

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DANIEL BAMBROUGH, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0219 (3-Day Suspension)

Case Type: PA

DECISION NO. 36993

DANIEL BAMBROUGH, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0220 (5-Day Suspension)

Case Type: PA

DECISION NO. 36994

Appearances:

Colin B. Good, Hawks Quindel, S.C., 409 East Main Street, P.O. Box 2155, Madison, Wisconsin, appearing on behalf of Daniel Bambrough

Anfin Jaw, Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

Appellant Daniel Bambrough received three- and five-day disciplinary suspensions for separate incidents from his employer, the Department of Corrections. After pursuing the grievance process, he sought review by the Wisconsin Employment Relations Commission. Bambrough received second step denials to both grievances on August 1, 2017, and filed appeals with the Commission in both on August 18. The Department has moved to dismiss both appeals based upon a failure to file timely appeals. Briefs in support and in opposition have been received from both parties.

DECISION AND ORDER GRANTING MOTIONS TO DISMISS

There is no dispute regarding the date upon which the grievance decisions were received by Bambrough or the date upon which the Commission received his appeals.

Bambrough makes the rather novel argument that the statutory requirement that neither side “may file an appeal later than 14 days after receiving the administrator’s decision” does not mean that the Commission must receive it within the 14-day period. Apparently, Bambrough believes that filing an appeal with the Commission really means filing an appeal with the United States Postal Service. There are a number of problems with the argument. Foremost is the fact that Wis. Admin. Code § ERC 91.03(2) provides in part that “filing is complete upon receipt,” and § ERC 92.01 which requires that “appeals be filed at the office of the commission” within the statutory time limits.

We recognize that the time limits are short and that equitable modification is available under appropriate circumstances. This, however, is not such a circumstance. While Bambrough may well have intended to file timely appeals, his failure to do so is not excusable. The Legislature determined that swift resolution of disciplinary appeals is an objective furthered by short appeal times and set the limits accordingly. We, therefore, issue the following:

ORDER

That the appeals of Daniel Bambrough are dismissed.

Signed at the City of Madison, Wisconsin, this 12th day of September, 2017.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

James J. Daley, Commissioner