

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TIMOTHY BENIKE, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0225

Case Type: PA

DECISION NO. 37263

Appearances:

Sean P. Daley, Field Representative, AFSCME Wisconsin Council 32, P.O. Box 19, Ashippun, Wisconsin, appearing on behalf of Timothy Benike.

Cara J. Larson, Attorney, 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.

ORDER DISMISSING APPEAL AS PREMATURE

On September 19, 2017, Timothy Benike filed an appeal with the Wisconsin Employment Relations Commission, pursuant to **§ 230.44(1)(c), Stats.**, alleging his base pay had been reduced without just cause by the State of Wisconsin Department of Corrections (emphasis added). On September 27, 2017, the State filed a motion to dismiss the appeal asserting the Commission lacks jurisdiction to hear the matter pursuant to **§ 230.45(1)(c), Stats.** (emphasis added). The State also asserted that the appeal was premature because any base pay reduction has not yet occurred. Benike responded on October 6, 2017.

A review of the pleading indicates that any reduction in base pay will not occur until September, 2018. If a reduction in base pay does then occur, Benike can file an appeal, and the State will be free to renew its motion to dismiss with a focus on the Commission's **§ 230.44(1)(c), Stats.**, jurisdiction.

Signed at the City of Madison, Wisconsin, this 20th day of October, 2017.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman