

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

PAULA POBAR-LAY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND
PROFESSIONAL SERVICES, Respondent.

Case ID: 264.0003

Case Type: PA

DECISION NO. 37317

Appearances:

William Leanderts, 1410 Loftsgordon Avenue, Madison, Wisconsin, appearing on behalf of Paula Pobar-Lay.

Anfin Jaw, Attorney, Department of Administration, 201 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Safety and Professional Services.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On January 29, 2018, Paula Pobar-Lay filed an appeal with the Wisconsin Employment Relations Commission asserting that the State of Wisconsin Department of Safety and Professional Services suspended her for one day without just cause. On February 6, 2018, the State filed a motion to dismiss the appeal on the grounds that Pobar-Lay had not timely filed a Step 2 appeal prior to filing her appeal with the Commission. Pobar-Lay filed a response to the motion and the matter became ripe for Commission action on February 13, 2018.

Having considered the matter, the Commission concludes the motion to dismiss should be granted.

NOW, THEREFORE, it is

ORDERED

The appeal of Paula Pobar-Lay is dismissed.

Signed at the City of Madison, Wisconsin, this 23rd day of February, 2018.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

This appeal of a discharge is governed by the provisions of § 230.445, Stats., that apply to discipline imposed on or after July 1, 2016. *See* 2015 Wisconsin Act 150, §§ 95(6) and 96(1). Section 230.445(2), Stats., states in pertinent part:

- (2) An employee may file a complaint under this section concerning ... an adverse employment decision against the employee.

Section 230.445(3)(b)1., Stats., provides in pertinent part:

- (b)1. If an appointing authority does not find in favor of the employee ..., the employee may appeal the appointing authority's decision by filing a complaint with the administrator. The employee may not file a complaint under this subdivision later than 14 days after the date of the appointing authority's decision.

...

- (c)1. **If a procedural requirement was not met by the employee ... the commission shall dismiss the appeal** (emphasis added).

In this case, it is undisputed that Pobar-Lay did not timely file a complaint with the administrator within 14 days as required by § 230.445(3)(b)1, Stats.¹ 1/ Because she did not meet this statutory procedural requirement, § 230.445(3)(c)1, Stats., requires that the Commission dismiss the appeal. The Commission has done so.

Signed at the City of Madison, Wisconsin, this 23rd day of February, 2018.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

¹ Pobar-Lay was aware of the 14-day deadline for filing a complaint. On December 27, 2017, one day before the deadline for timely filing, Pobar-Lay was reminded that she needed to personally file the complaint. Pobar-Lay did not do so until December 30, 2017.