

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

---

CHARLEEN ROEN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0234

Case Type: PA

DECISION NO. 37431

---

**Appearances:**

Charlene Roen, N6870 Esterbrook Road, Fond du Lac, Wisconsin, appearing on her own behalf with David Glendenning, 751 County Road K, P.O. Box 1947, Fond du Lac, Wisconsin.

Cara Larson, 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 Corrections.

**DECISION AND ORDER DENYING MOTION TO DISMISS**

On February 14, 2018, Charleen Roen filed an appeal with the Wisconsin Employment Relations Commission asserting that the State of Wisconsin Department of Corrections (DOC) suspended her for one day without just cause. On February 28, 2018, DOC filed a motion to dismiss the appeal on the grounds that Roen had not timely filed a first step grievance prior to filing her appeal with the Commission. On March 5, 2018, Roen filed a response to the motion and the parties submitted additional documents in response to a Commission request.

Having considered the matter, the Commission denies the motion pending hearing.

NOW, THEREFORE, it is

**ORDERED**

The motion to dismiss is denied.

Signed at the City of Madison, Wisconsin, this 9th day of March, 2018.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

---

James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND  
ORDER DENYING MOTION TO DISMISS**

This appeal of a suspension 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(3) states in pertinent part:

- (a)1. To commence the grievance process for an adverse employment action, an employee shall file a complaint with the employee's appointing authority challenging the adverse employment decision against the employee no later than 14 days after the employee becomes aware of, or should have become aware of, the decision that is the subject of the complaint.

...

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

In this case, Roen received the suspension letter on December 6, 2017, and thus a timely grievance had to be filed on or before December 20, 2017. The text of the suspension letter provided a DOC email address that should be used if Roen wanted to file a grievance electronically. At 6:35 p.m. on Monday, December 18, 2017, Roen emailed a grievance but sent it to the State Department of Personnel Management (DPM) email address instead of the DOC address provided in the suspension letter. DPM forwarded the grievance to DOC on December 26, 2017.

Where, as here, a grievance was timely sent but to the wrong State employer-side email address, there are factual circumstances where the Commission would conclude a grievance was timely. As a general matter, when an employee is unrepresented, the best practice would be for DPM to forward a grievance on to DOC. At a minimum, DPM should advise the employee that the grievance had been sent to the wrong address. From the record as it stands, neither of these things happened, but there may have been factual circumstances that justify these failures. The matter will proceed to hearing to allow for the presentation of any such evidence.<sup>1</sup>

---

<sup>1</sup> If prior to hearing the parties are able to reach an agreement on the relevant facts, the Commission will reconsider its decision on the motion to dismiss. Otherwise, the April 24, 2018 hearing will be for the purpose of receiving evidence on both this procedural issue and the merits of the suspension.

Signed at the City of Madison, Wisconsin, this 9th day of March, 2018.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

---

James J. Daley, Chairman