

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CYNTHIA W. EMMETT, Appellant

vs.

STATE OF WISCONSIN DEPARTMENT OF TRANSPORTATION

Case ID: 446.0014

Case Type: PA

DECISION NO: 37464

Appearances:

Cynthia W. Emmett, 5566 South 110th Street, Hales Corners, Wisconsin, appearing on her own behalf.

Daniel A. Graff, Assistant General Counsel, Department of Transportation, 4822 Madison Yards Way, Room 922 South, P.O. Box 7910, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Transportation.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On May 2, 2018, Cynthia W. Emmett filed an appeal with the Wisconsin Employment Relations Commission seeking a wage payment for the period of time between the date she alleges she should have been reclassified to the higher paying position by the State of Wisconsin Department of Transportation (DOT) to the date she was reclassified by DOT. On May 21, 2018, DOT filed a motion to dismiss the appeal. The parties thereafter filed argument, the last of which was received on June 13, 2018.

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

NOW, THEREFORE, it is:

ORDERED

The appeal filed by Cynthia W. Emmett is dismissed.

Signed at the City of Madison, Wisconsin, this 3rd day of July, 2018.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING ORDER GRANTING MOTION TO DISMISS

Emmett's appeal is best characterized as arguing that the effective date of her December 10, 2017 reclassification should have been February 25, 2016. It is undisputed that Emmett received notice of her reclassification on December 19, 2017, on a form that advised her that any appeal related to the reclassification had to be filed with the Commission within 30 days. Emmett's appeal was filed on May 2, 2018.

Commission jurisdiction as to reclassification appeals is established by § 230.44(1)(b), Stats. Section 230.44(3), Stats., states:

(3) TIME LIMITS. Any appeal filed under this section may not be heard unless the appeal is filed within 30 days after the effective date of the action, or within 30 days after the appellant is notified of the action, whichever is later.

Emmett's appeal was filed with the Commission well after the 30-day deadline. Therefore, it "may not be heard" and is hereby dismissed.

Signed at the City of Madison, Wisconsin, this 3rd day of July, 2018.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman