

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KEIA TREVONTE, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0109

Case Type: PA

DECISION NO. 39307

Appearances:

Keia Trevonte, 613 16th Street, Racine, Wisconsin, appearing on her own behalf.

Anfin Jaw, 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.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On January 13, 2022, Keia Trevonte filed an appeal with the Wisconsin Employment Relations Commission asserting she had been suspended for one day without just cause by the State of Wisconsin Department of Health Services (DHS). On January 24, 2022, DHS filed a motion to dismiss the appeal as untimely filed. Trevonte filed a response to the motion on January 31, 2022.

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

NOW, THEREFORE, it is:

ORDERED

The motion to dismiss is granted and the appeal is dismissed.

Issued at the City of Madison, Wisconsin, this 22nd day of February, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

Wisconsin Stat. § 230.445(3)(c)1. provides in pertinent part:

An employee or an appointing authority may appeal a decision issued by the administrator under par. (b) by filing an appeal with the commission. The employee or appointing authority may not file an appeal with the commission under this paragraph later than 14 days after receiving the administrator's decision. . . . **If a procedural requirement was not met by the employee . . . the commission shall dismiss the appeal** [emphasis added].

Here, Trevonte received the Administrator's decision on December 29, 2021 along with instructions as to how to file a timely appeal with the Commission within 14 calendar days. Trevonte filed her appeal on January 13, 2022.

Trevonte does not dispute that her appeal was untimely but asks that the Commission nonetheless review the merits of her appeal. However, the above-quoted language of the statute does not allow the Commission to do so. Therefore, the motion to dismiss has been granted and the appeal has been dismissed.

Issued at the City of Madison, Wisconsin, this 22nd day of February 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman