

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SASHA STRAKA, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF TRANSPORTATION, Respondent.

Case ID: 446.0038

Case Type: PA

DECISION NO. 39455

Appearances:

Sasha Straka, 1605 E. Wells Street, #107, Prairie du Chien, Wisconsin, appearing on her own behalf.

William Ramsey, 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 Transportation.

DECISION AND ORDER DISMISSING APPEAL

On May 24, 2022, Sasha Straka filed an appeal with the Wisconsin Employment Relations Commission asserting she had been suspended for five days without just cause by the State of Wisconsin Department of Transportation (DOT). Pursuant to its obligations under Wis. Stat. § 230.445(3)(c)1., the Commission notified the parties that it appeared the appeal was untimely and invited any response to be filed on or before July 6. No response was filed.

Having considered the matter, the Commission concludes that Straka did not file her appeal within 14 days of her receipt of “the decision of the administrator” as required by Wis. Stat. § 230.445(3)(c)1.

NOW, THEREFORE, it is:

ORDERED

The appeal is dismissed.

Issued at the City of Madison, Wisconsin, this 2nd day of August, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
DISMISSING APPEAL

Section 230.445 (3)(c) 1., Stats. 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. [T]he commission shall determine whether all procedural requirements were completed properly and in a timely manner. If a procedural requirement was not met by the employee or if the appointing authority's appeal under this paragraph was not made in a timely manner, the commission shall dismiss the appeal.

Straka received “the administrator’s decision” as to her suspension on May 9, 2022. Straka’s appeal was received by the Commission at 5:33 pm on May 23, 2022. Because the Commission’s office is closed as of 4:30 pm, the appeal was not filed until the next day-May 24, 2022.¹ Therefore, Straka’s appeal was one day late and must be dismissed as required by Wis. Stat. § 230.445(3)(c)1.

Issued at the City of Madison, Wisconsin, this 2nd day of August 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

¹ Wisconsin Statute § 230.35(4)(f), provides: Monday to Friday the offices of the agencies of state government shall open at 7:45 a.m. and close at 4:30 p.m., with intermissions from 11:45 a.m. to 12:30 p.m. Agencies may, with the permission of the governor, adjust opening and closing hours and intermission periods to relieve traffic congestion or as the needs of the service otherwise require.

Consistent with Wis. Stat. § 230.35(4)(f), the Commission’s office is closed after 4:30 p.m.

Wisconsin Admin. Code § ERC 91.02(10) states: “Filing” means the physical receipt of a document at the commission’s office.