

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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SASHA STRAKA, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF TRANSPORTATION, Respondent.

Case ID: 446.0031

Case Type: PA

DECISION NO. 39465

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**Appearances:**

Sasha Straka, 1605 E. Wells Street, #107, Prairie du Chien, WI 53821, 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 GRANTING MOTION TO DISMISS**

On February 21, 2022, Sasha Straka filed an appeal with the Wisconsin Employment Relations Commission asserting that the State of Wisconsin Department of Transportation (DOT) had implemented work rules that violated her constitutional rights and her religious faith. The appeal also contends that DOT has retaliated against her for filing grievances appealing the discipline she received for failing to follow the work rules.

On March 17, 2022, DOT filed a motion to dismiss the appeal. Straka submitted a response to the motion on March 31, 2022. At the request of the Commission, supplemental argument was filed by July 26, 2022.

Being fully advised on the premises and having considered the matter, the Commission makes and issues the following:

**ORDER**

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

Issued at the City of Madison, Wisconsin, this 26<sup>th</sup> day of August, 2022.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**  
**GRANTING MOTION TO DISMISS APPEAL**

Straka filed her appeal pursuant to Wis. Stat. § 230.45(1)(c) which provides that the Commission shall “serve as final step arbiter in the state employee grievance procedure established under s. 230.04(14).” Section 230.04(14), Wis. Stats. specifies that “the administrator shall establish, by rule, the scope and minimum requirements of a state employee grievance procedure relating to conditions of employment.” That grievance procedure is established by Wis. Admin. Code Ch. ER 46.

Section ER 46.03(2)(j), Wis. Admin. Code specifies that employees can’t grieve “a condition of employment which is a right of the employer as defined in s. ER 46.04.” Section ER 46.04, Wis. Admin. Code specifies that two of those employer rights are “Managing and directing the employee of the agency” and “Establishing reasonable work rules.”

In her appeal, Straka is attacking the DOT work rules as to mask wearing and COVID testing. When ruling on Straka’s appeals as to discipline she has received for failing to follow those rules, the Commission has concluded that the work rules in question are “reasonable.”<sup>1</sup> Thus, as reflected above, the grievance procedure does not allow her to grieve the work rules at issue. Because the Commission jurisdiction under Wis. Stat. § 230.45(1)(c) is limited to matters that can be grieved, it follows that the Commission does not have jurisdiction over the appeal. Therefore, the DOT motion to dismiss has been granted and the appeal has been dismissed.<sup>2</sup>

Issued at the City of Madison, Wisconsin, this 26<sup>th</sup> day of August, 2022.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>1</sup> *Straka v. DOT*, Dec. No. 39316 (WERC, 5/22); *Straka v. DOT*, Dec. No. 39449 (WERC, 7/22)

<sup>2</sup> In her appeal, Straka also asserts that DOT has retaliated against her for filing this grievance and protesting discipline she has received for failing to follow work rules. Section 430.130 the Wisconsin Human Resources Handbook provides that State agencies “are prohibited from retaliating against a grievant, representative, or witness who participates, or is scheduled to participate, in proceedings for using the grievance procedure. The DPM Administrator can enforce this prohibition by order under s. 230.04(3), Wis. Stats.” So it is the DPM Administrator that has jurisdiction over this type of claim of retaliation.