

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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SHEILA EASLEY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES, Respondent.

Case ID: 4.0016

Case Type: PA

DECISION NO. 39805

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**Appearances:**

Sheila Easley, 2517 N 15<sup>th</sup> Street, Milwaukee, Wisconsin, appearing on her own behalf.

Nicole Porter, 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 Children and Families.

**DECISION AND ORDER GRANTING MOTION TO DISMISS**

On November 21, 2022, Sheila Easley filed an appeal with the Wisconsin Employment Relations Commission disputing a temporary assignment by the State of Wisconsin Department of Children and Families (DCF). On January 10, 2023, Easley filed an amended complaint disputing her work duties, assignments, and job classification at DCF. On January 27, 2023, DCF filed a motion to dismiss asserting that the Commission does not have jurisdiction over the appeal. Easley filed an amended complaint and reply to the motion to dismiss on February 10, 2023. DCF submitted a response to Easley's amended complaint on February 24, 2023.

Having reviewed the matter, the Commission concludes that it does not have jurisdiction over the appeal.

NOW, THEREFORE, it is:

**ORDERED**

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

Issued at the City of Madison, Wisconsin, this 9<sup>th</sup> day of March, 2023.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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

Easley is a Childcare Subsidy Specialist-Senior at DCF's Milwaukee Early Care Administration (MECA). On March 23, 2020, Easley was notified by DCF that effective March 30, 2020, she would temporarily support the MECA's Division of Early Care and Education in the completion of the childcare authorizations. Her classification, pay rate, and headquartered city remained the same. Easley disputes her assigned work duties and responsibilities and asserts that Wis. Stat. §§ 230.44(1)(a), 230.44(1)(b), and 230.44(1)(d) give the Commission jurisdiction over her appeal.

Wis. Stat. § 230.44(1)(a), gives the Commission jurisdiction to hear matters of personnel decisions made or delegated by the Director of the Bureau of Merit Recruitment and Selection (BMRS), in the Division of Personnel Management, in the Department of Administration or was delegated by the BMRS Director to an appointing authority. Easley has not identified a personnel decision that was made or delegated by the BMRS Director. Instead, Easley's appeal focuses on decisions made or delegated by the Director of MECA to direct her work and assign job duties. The Commission has previously held that Wis. Stat. § 230.44(1)(a) does not provide jurisdiction over actions to assign duties to an employee "because they are actions taken by the appointing authority pursuant to Sec. 230.06(1)(b), Stats., and not by the [Director<sup>1</sup>]. See *Galligan v. DOC*, Dec. No. 32987 (WERC, 2/2010).

Wis. Stat. § 230.44(1)(b), gives the Commission jurisdiction to hear matters of personnel decisions of job classifications under Wis. Stat. §§ 230.09(2)(a) or (d). Wisconsin Stat. § 230.09(2)(a) relates to a decision made or delegated by the Administrator as to the allocation, reclassification, or reallocation of a position. Wisconsin Stat. § 230.09(2)(d) is the decision whether an incumbent shall be regraded following the reclassification or reallocation of a filled position. Wisconsin Stat. § 230.44(1)(b) also gives the Commission jurisdiction related to personnel decisions to keep personnel records closed to the public. Easley's position has not been reclassified or reallocated<sup>2</sup>, and her appeal does not relate to keeping personnel records closed to the public.

Wisconsin Stat. § 230.44(1)(d) gives the Commission jurisdiction to hear matters of personnel actions "after certification which is related to the hiring process in the classified service." There is no evidence that Easley was appointed to a new position, or that her appeal relates to the hiring process to her position of Childcare Subsidy Specialist-Senior.

Wisconsin Stat. § 230.45(1)(c) does give the Commission the power to "[s]erve as final step arbiter in the state employee grievance procedure established under s. 230.04(14)." However, the grievance procedure referenced in Wis. Stat. § 230.04(14) and found in Wis. Admin. Code ch. ER 46 specifically excludes conditions of employment which are management rights of the

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<sup>1</sup> 2015 Wisconsin Act 150 changed the Division of Merit Recruitment and Selection to be the Bureau of Merit Recruitment and Selection. Previous references to administrator in Wis. Stat. § 230.44(1)(a) are now director.

<sup>2</sup> Appellant may consider making a request to reclassify or reallocate her position.

employer as defined in § ER 46.04, from matters that can be pursued before the Commission.<sup>3</sup> Management rights include utilizing personnel to carry out the goals of the agency, managing employees, and assigning specific duties and responsibilities to employees.

Given all of the foregoing, the Commission concludes that it does not have jurisdiction to review the merits of the claims Easley has raised in her appeal. Therefore, the motion to dismiss has been granted and the appeal dismissed.

Issued at the City of Madison, Wisconsin, this 9<sup>th</sup> day of March, 2023.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>3</sup> Wis. Admin. Code § ER 46.03 Scope.

(1) Under this chapter, an employee may grieve issues which affect his or her conditions of employment, including any matter on which the employee alleges that coercion or retaliation has been practiced against the employee except as provided in sub. (2).

(2) An employee may not use this chapter to grieve:

- ...
- (j) A condition of employment which is a right of the employer as defined in s. ER 46.04;

Section ER 46.04 Management rights.

(2) For the purpose of this chapter, the management rights of the employer include, but are not limited to, the following:

- (a) Utilizing personnel, methods and means to carry out the statutory mandate and goals of the agency.

...

- (c) Managing and directing the employees of the agency.
- (d) Hiring, promoting, transferring, assigning or retaining employees.