

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DANIEL R. MURPHY, Complainant,

vs.

CITY OF RIVER FALLS, Respondent.

Case ID: 707.0000
Case Type: COMP_MP

DECISION NO. 41272-A

Appearances:

Daniel Murphy, 170 State Road 65, River Falls, Wisconsin, appearing on his own behalf.

Ryan P. Heiden, Attorney, von Briesen & Roper, S.C., 411 East Wisconsin Avenue, Suite 1000, Wisconsin, appearing on behalf of the City of River Falls.

ORDER DISMISSING COMPLAINT

On December 12, 2025, Daniel R. Murphy filed a prohibited practice complaint with the Wisconsin Employment Relations Commission alleging that the City of River Falls violated Wis. Stat. §§ 66.0509 and 111.70(3)(a) by failing to properly process his statutory grievance procedure following his termination and by allegedly retaliating against him for engaging in protected activity.

On December 18, 2025, the Commission appointed Anfin J. Wise as Examiner in the matter.

On December 22, 2025, the City of River Falls filed a Motion to Dismiss the Complaint pursuant to Wis. Admin. Code ERC § 12.04(2)(f), asserting that the Commission lacks jurisdiction over the claims asserted. On December 23, 2025, the Complainant submitted a Response to the Respondent's Motion to Dismiss.

Having considered the matter, the Examiner is persuaded that the Commission lacks jurisdiction and the Complaint must be dismissed;

NOW, THEREFORE, it is

ORDERED

The complaint is dismissed.

Issued at Madison, Wisconsin, this 6th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Examiner

MEMORANMDUM ACCOMPANYING ORDER DISMISSING COMPLAINT

The Complaint alleges that the City of River Falls violated Wis. Stat. §§ 66.0509 and 111.70(3)(a) by failing to properly investigate and process the Complainant's grievance following his termination and by allegedly retaliating against him for engaging in protected activity. Even accepting all factual allegations as true, the complaint fails to state a claim within the Commission's jurisdiction and must be dismissed.

The Wisconsin Employment Relations Commission possesses only those powers expressly conferred upon it or necessarily implied by statute. *Wisconsin Ass'n of State Prosecutors v. WERC*, 2018 WI 17. A pre-hearing motion to dismiss is properly granted where a complaint, on its face, seeks relief beyond the Commission's statutory authority or otherwise fails to allege conduct protected or prohibited by the Municipal Employment Relations Act (MERA). *City of Kenosha*, Dec. No. 33271-A (Jones, 7/11). Complaints alleging conduct outside the scope of MERA are outside the Commission's jurisdiction and must be dismissed. *Eau Claire Association of Educators*, Dec. Nos. 29689-C, 29690-C, 29691-C (McLaughlin, 01/00).

The essence of the complaint is Complainant's assertion that the City failed to comply with the requirements of its grievance procedure adopted pursuant to Wis. Stat. § 66.0509, including alleged deficiencies in the Step 1 investigation and delays in advancing the grievance to Step 2. The Complainant asks the Commission to declare violations of Wis. Stat. § 66.0509, direct the timing and manner of grievance processing, appoint or replace an impartial hearing officer, oversee the City's hiring and rehiring decisions, require disclosure of internal employment policies, and order reinstatement and other make-whole relief.

The Commission, however, has no jurisdiction to interpret, enforce, or adjudicate compliance with Wis. Stat. § 66.0509 or grievance procedures adopted pursuant to that statute. Section 66.0509 does not confer authority on the Commission, nor is it incorporated into MERA. Challenges to a municipal employer's compliance with § 66.0509 must be pursued, if at all, in another forum. Accordingly, allegations premised on an asserted violation of § 66.0509 fail to state a claim within the Commission's jurisdiction and the Commission lacks statutory authority to grant the relief requested.

The Complaint further alleges that the City's conduct interfered with the Complainant's rights under Wis. Stat. § 111.70(2) and constituted retaliation in violation of Wis. Stat. § 111.70(3)(a)1 and 3. These claims likewise fail as a matter of law.

To be protected under Sec. 111.70(2), employee conduct must be a concerted act, that is, an act undertaken with or on behalf of other employees or in furtherance of the collective, rather than purely individual interests. *City of La Crosse*, Dec. No. 17084-D (WERC, 10/83). Conduct undertaken solely to advance an individual employee's personal employment interests does not constitute protected concerted activity under MERA. Here, the Complainant alleged that he engaged in protected activity by filing and pursuing a grievance challenging his own termination under the City's § 66.0509 grievance procedure and by later applying for reemployment with the City. The complaint does not allege that Complainant acted in concert with other employees, raised

issues of common concern to employees generally, or otherwise engaged in collective activity. Rather, the alleged conduct was undertaken solely in pursuit of Complainant's individual interest in reinstatement or reemployment.

In his response to the motion, the Complainant cites *City of La Crosse*, Dec. No. 17084-D (10/83), *Central High School District of Westosha*, Dec. No. 29671-B (05/00), and *Elk Mound Area School District*, Dec. No. 30650-A (05/04) in support of the proposition that a single employee may pursue a MERA claim. While he is correct in that the Commission allows prohibited practice complaints by a single non-union employee, protection only exists if the activity is concerted or reasonably connected to statutory or procedural rights affecting more than one employee. The three cases cited all involved such activity, which is not alleged here. Here, by contrast, the Complaint alleges only conduct undertaken solely to advance the Complainant's individual employment interests, which does not constitute protected activity under MERA.

Here, the Complaint does not allege any activity protected by MERA. The Complainant was acting only on his own behalf in challenging his termination, not with or for other employees. Claims that the City failed to follow the grievance process under Wis. Stat. § 66.0509, or interfered with the Complainant's individual grievance, do not fall within the Commission's authority. Because MERA does not cover disputes over purely personal grievances, the complaint fails to state viable claims of interference or retaliation under Sec. 111.70(3)(a)1 or 3.

Accordingly, the Complaint fails to state a claim within the Commission's jurisdiction and therefore, the complaint is dismissed.

Issued at the City of Madison, Wisconsin, this 6th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Anfin J. Wise, Examiner