

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

---

**JULIE ALT**, Appellant,

v.

**Secretary, DEPARTMENT OF CORRECTIONS**, Respondent.

Case 55  
No. 66025  
PA(adv)-101

**Decision No. 31795**

---

**Appearances:**

**Julie Alt**, appearing on her own behalf.

**Terri Rees**, Paralegal, Department of Corrections, PO Box 7925, Madison, WI 53707-7925, appearing on behalf of Respondent.

**ORDER DISMISSING APPEAL FOR LACK OF SUBJECT MATTER JURISDICTION**

This matter is before the Wisconsin Employment Relations Commission (the Commission) on a motion to dismiss the appeal for lack of subject matter jurisdiction. On August 22, 2006, after the Appellant had filed two responses to the pending motion, Respondent declined to file a reply and the motion was ready for decision.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

**FINDINGS OF FACT**

1. At all times relevant to this appeal, Julie Alt (Appellant) has been employed by the Department of Corrections and worked in a position covered by the collective bargaining agreement. Most recently, she has worked at Oakhill Correctional Institution.

2. On or about June 12, 2006, Respondent placed Ms. Alt on paid administrative leave "pending the outcome of an on-going investigation for possible misconduct."

3. Ms. Alt submitted various documents to the Commission on June 27, 2006, in an effort to obtain review of the Respondent's action. She alleged that Respondent's action constituted "harassment" based on sex, age and/or marital status and included a 7-page handwritten letter in support of her claim.

Dec. No. 31795

4. She filed a complaint of discrimination with the Equal Rights Division of the Department of Workforce Development on July 3, 2006, in which she alleged that she had been discriminated against based on her sex, age and marital status when she “was being wrote up and investigated.”

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following

**CONCLUSION OF LAW**

The Commission lacks subject matter jurisdiction over this matter as an appeal filed under sec. 230.44 or .45, Stats.

Based on the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

**ORDER**

This matter is dismissed for lack of subject matter jurisdiction as an appeal filed under Sec. 230.44 or .45, Stats.

Given under our hands and seal at the City of Madison, Wisconsin, this 6<sup>th</sup> day of September, 2006.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

---

Judith Neumann, Chair

Paul Gordon /s/

---

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

---

Susan J. M. Bauman, Commissioner

**Department of Corrections (Alt)**

**MEMORANDUM ACCOMPANYING ORDER DISMISSING APPEAL**

The Appellant seeks to obtain review of the action of her employer, Oak Hill Correctional Institution, to investigate allegations of misconduct by her and to place her on paid administrative leave during the investigation. The Commission has processed Ms. Alt's claim, submitted to the Commission on June 27, 2006, as a state civil service appeal filed pursuant to Sec. 230.44 and .45(1), Stats.

Respondent has moved to dismiss the appeal for lack of subject matter jurisdiction. More specifically, the Department argues that the Commission "lacks jurisdiction to hear a discrimination complaint filed by a state employee." We agree that the Commission lacks the authority to receive and process complaints of discrimination that seek to invoke Wisconsin's Fair Employment Act, subch. II, ch. 111, Stats. To the extent that Ms. Alt alleges Oak Hill's employment actions constituted discrimination based on sex, age or marital status, the authority to review her claims rests with the Equal Rights Division of the Department of Workforce Development as provided in Sec. 230.45(1e), Stats., which provides:

The division of equal rights shall:

- (a) Receive and process complaints of discrimination of state employees under s. 111.375.

Irrespective of the basis for the alleged unfairness by Respondent, the actions that are the subject of Appellant's claims are not personnel actions reviewable under either Sec. 230.44 or .45(1), Stats. The Commission lacks jurisdiction to review a "suspension with pay" pending an investigation<sup>1</sup> as well as the procedures used to investigate a complaint against an employee.<sup>2</sup>

---

<sup>1</sup> PASSER V. DHSS, CASE NO. 90-0003-PC (PERS. COMM. 5/16/90).

<sup>2</sup> FREY V. DOT, CASE NO. 79-107-PC (PERS. COMM. 8/30/79); WHITE V. DOT, CASE NO. 79-112-PC (PERS. COMM. 1/15/80).

Because the Commission lacks the authority to hear this matter as an appeal under Sec. 230.44 or .45, it must be dismissed. The Commission's Order dismissing this matter has no effect on Ms. Alt's claim before the Equal Rights Division. In the event the Respondent formally disciplines Ms. Alt, she may wish to contact her union.

Dated at Madison, Wisconsin, this 6<sup>th</sup> day of September, 2006.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

---

Judith Neumann, Chair

Paul Gordon /s/

---

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

---

Susan J. M. Bauman, Commissioner