

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ANGELA LAIRD, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0071

Case Type: PA

DECISION NO. 37969

Appearances:

Angela Laird, 206 Plummer Avenue, Neenah, Wisconsin, appearing on her own behalf.

Cara Larson, Department of Administration, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Health Services.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On June 28, 2019, Angela Laird filed an appeal with the Wisconsin Employment Relations Commission asserting she had been discharged without just cause by the State of Wisconsin Department of Health Services. On July 8, 2019, the State filed a motion to dismiss the appeal as untimely. Laird did not file a response to the motion, and the matter became ripe for consideration on July 16, 2019.

Having considered the matter, the Commission concludes the motion should be granted.

NOW, THEREFORE, it is

ORDERED

The motion to dismiss is granted.

Dated at Madison, Wisconsin, this 23rd day of July, 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

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

Section 230.445(3)(c)1, Stats., outlines the time requirements dictating when an appeal must be filed and specifically states the employee or appointing authority may not file an appeal with the Commission later than 14 days after receiving the administrator's decision.

In this case, Angela Laird's Step 2 grievance was returned to her with directions on appealing the decision to the Commission via email on June 6, 2019. At the bottom of the employer grievance decision, which was attached to the June 6 email, instructions for an appeal were outlined. Laird was advised that a timely appeal of a Step 2 decision must be filed with the Commission no later than 14 days after receiving the Division of Personnel Management's (DPM) decision. Furthermore, the Department of Health Services (DHS) also attached instructions for filing an appeal with the Commission to the email. The attached instructions advised Laird again that the appeal must be made in writing and filed and received by the Commission within 14 calendar days from receipt of DPM's Step 2 response. Laird received notice of the administrator's decision on June 6, 2019. The last day for a timely appeal within the 14-day deadline would have been June 20, 2019. Laird's appeal to the Commission was not received until June 28, 2019. This is clearly outside of the 14-day mandatory requirement set forth in § 230.445(3)(c)1, Stats. Since Laird's appeal was untimely, the Commission has dismissed the appeal.

Dated at Madison, Wisconsin, this 23rd day of July, 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman