

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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LEAH ZENI, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0394

Case Type: PA

DECISION NO. 38775

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**Appearances:**

Leah Zeni, 4720 S. Green Bay Road, Mount Pleasant, Wisconsin appearing on her own behalf.

Cara Larson, Wisconsin 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 Corrections.

**DECISION AND ORDER GRANTING MOTION TO DISMISS**

On September 11, 2020, Leah Zeni filed an appeal pursuant to Wis. Stat. § 230.44(1)(d) with the Wisconsin Employment Relations Commission challenging an action taken by the State of Wisconsin Department of Corrections (DOC) on August 5, 2020. On October 14, 2020, DOC filed a motion to dismiss the appeal asserting among other matters that the appeal had not been filed within the statutorily established 30-day period and thus was untimely. Zeni filed a response to the motion on October 20, 2020.

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

NOW, THEREFORE, it is:

**ORDERED**

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

Issued at the City of Madison, Wisconsin, this 8<sup>th</sup> day of December, 2020.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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

Wisconsin Stat. § 230.44(3) establishes a 30-day time period within which appeals asserting a violation of Wis. Stat. § 230.44(1)(d) can be timely filed. Zeni did not file within that 30-day period. She nonetheless asserts that her appeal is timely because it was filed within 14 days of the end of her effort to use the State employee grievance procedure to raise her concern. However, Zeni is not seeking to invoke the Commission's jurisdiction under Wis. Stat. § 230.45(1)(c) as the last step of the grievance procedure. Rather, she chose Wis. Stat. § 230.44(1)(d) as to which a 30-day time period is applicable. Because Zeni did not file her appeal within 30 days of the DOC action in question, the Commission does not have jurisdiction and the appeal has therefore been dismissed.

Issued at the City of Madison, Wisconsin, this 8<sup>th</sup> day of December, 2020.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman