

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JAMES WENZLER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS and
DEPARTMENT OF ADMINISTRATION, DIVISION OF PERSONNEL MANAGEMENT,
Respondents.

Case ID: 1.0434

Case Type: PA

DECISION NO. 38955-A

Appearances:

James Wenzler, 7503 Loy Road, Arena, Wisconsin appearing on his own behalf.

Anfin Jaw, 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 Corrections and Department of Administration, Division of Personnel Management.

ORDER DENYING PETITION FOR REHEARING

On June 7, 2021, the Wisconsin Employment Relations Commission issued an Order dismissing an appeal filed by James Wenzler, which asserted a violation of Wis. Stat. § 230.44(1)(b). On June 8, 2021, Wenzler filed a Petition for Rehearing pursuant to Wis. Stat. § 227.49, contending that the Commission failed to address his jurisdictional argument as to Wis. Stat. § 230.04(1m). That same day, the State filed a statement opposing the Petition.

The Commission has reviewed the matter and concluded that it did not commit an error of law in its June 7, 2021 Order. As reflected in the language of Wis. Stat. § 230.44(1)(b), which was quoted in our June 7, 2021 Order, only “a personnel decision under s. 230.09(2)(a) or (d) or 230.13(1)” can be appealed to the Commission. That same jurisdictional limitation is found in Wis. Stat. § 230.04(1m), which states:

Any delegatory action taken under s. 230.09(2)(a) or (d) or 230.13 (1) by an appointing authority may be appealed to the commission under s. 230.44(1)(b).

Given the foregoing, it is clear that Wis. Stat. §§ 230.04(1m) and 230.44(1)(b) limit the Commission’s jurisdiction to three specific statutorily listed personnel decisions that can be

delegated by the “administrator.” There is no general jurisdiction under Wis. Stat. § 230.44(1)(b) to review other types of actions delegated by the “administrator” pursuant to Wis. Stat. § 230.04(1m). The June 7, 2021 Order correctly addressed all allegations as to which the Commission has jurisdiction. Therefore, no error of law was made.

NOW, THEREFORE, it is

ORDERED

The petition for rehearing is denied.

Issued at Madison, Wisconsin this 2nd day of July, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman