

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CARRIE CLARK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0474

Case Type: PA

Decision No. 38984

Appearances:

Carrie Clark, N7468 Brandon Road, Ripon, Wisconsin, appearing on her own behalf.

Nicole Rute, 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 July 16, 2021, Carrie Clark filed an appeal with the Wisconsin Employment Relations Commission_ asserting she had been suspended for one day without just cause by the State of Wisconsin Department of Corrections (DOC). On July 19, 2021, DOC filed a motion to dismiss contending that the appeal was untimely filed with the Commission. Clark filed a response on July 20, 2021.

Having considered the matter, the Commission concludes that the appeal was untimely filed.

NOW, THEREFORE, it is:

ORDERED

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

Issued at the City of Madison, Wisconsin, this 9th day of August, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

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

Section 230.445, Stats., provides that state employees may appeal certain disciplinary actions to the Commission. Section 230.445(3)(a), Stats., outlines the time requirements dictating when an appeal must be filed. Subsection (c) of that provision specifies a timeline for filing an appeal with the Commission. Specifically, it is “14 days after receiving the administrator’s decision.” Subsection (c) goes on to provide that “[i]f a procedural requirement is not met by the employee . . . the commission shall dismiss the appeal.”

Clark received notice of the suspension on June 22, 2021. She was correctly advised by DOC that she had 14 calendar days to file an appeal with the Commission. Clark filed her appeal on July 16-10 days after the July 6 deadline for a timely filing.

Clark contends that her untimely filing should be excused because she was on vacation without email access for part of the time-period. She also asserts that weekends and holiday ought not count against her. These arguments are not persuasive. Clark was advised of the applicable time frame for filing and she choose not to meet that deadline. Therefore, the Commission is obligated to dismiss her appeal.

Issued at the City of Madison, Wisconsin, this 9th day of August, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman