

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SHEILA EASLEY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES, Respondent.

Case ID: 4.0015

Case Type: PA

DECISION NO. 39471

Appearances:

Sheila Easley, 2517 N 15th Street, Milwaukee, Wisconsin, appearing on her own behalf.

David G. Makovec, 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.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On May 31, 2022, Sheila Easley filed an appeal with the Wisconsin Employment Relations Commission disputing a temporary assignment by the State of Wisconsin Department of Children and Families (DCF). On June 30, 2022, DCF filed a motion to dismiss asserting that the Commission does not have jurisdiction over the appeal. Easley filed a reply on July 15, 2022. DCF submitted a response to Easley's reply on July 20, 2022.

Having reviewed the matter, the Commission concludes that it does not have jurisdiction over the appeal.

NOW, THEREFORE, it is:

ORDERED

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

Issued at the City of Madison, Wisconsin, this 25th day of August, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

Easley is a Childcare Subsidy Specialist-Senior at DCF's Milwaukee Early Care Administration (MECA). On March 23, 2020, Easley was notified by DCF that effective March 30, 2020, she would temporarily support the MECA's Division of Early Care and Education in the completion of the childcare authorizations. Her classification, pay rate, and headquartered city remained the same. The temporary assignment appears to be new duties not previously performed by Easley. The appeal does not specify what statute might give the Commission jurisdiction over the matters.

Wisconsin Stat. § 230.45(1)(c) does give the Commission the power to “[s]erve as final step arbiter in the state employee grievance procedure established under s. 230.04(14).” However, the grievance procedure referenced in Wis. Stat. § 230.04(14) and found in Wis. Admin. Code ch. ER 46 specifically excludes conditions of employment which are management rights of the employer as defined in § ER 46.04, from matters that can be pursued before the Commission.¹ Management rights include utilizing personnel to carry out the goals of the agency, managing employees, and assigning specific duties and responsibilities to employees.

Given all of the foregoing, the Commission concludes that it does not have jurisdiction to review the merits of the claim Easley has raised in her appeal. Therefore, the motion to dismiss has been granted and the appeal dismissed.

¹ Wis. Admin. Code § ER 46.03 Scope.

(1) Under this chapter, an employee may grieve issues which affect his or her conditions of employment, including any matter on which the employee alleges that coercion or retaliation has been practiced against the employee except as provided in sub. (2).

(2) An employee may not use this chapter to grieve:

...

(j) A condition of employment which is a right of the employer as defined in s. ER 46.04;

Section ER 46.04 Management rights.

(2) For the purpose of this chapter, the management rights of the employer include, but are not limited to, the following:

(a) Utilizing personnel, methods and means to carry out the statutory mandate and goals of the agency.

...

(c) Managing and directing the employees of the agency.

(d) Hiring, promoting, transferring, assigning or retaining employees.

Issued at the City of Madison, Wisconsin, this 25th day of August, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman