

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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TAMARA ADLER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0587

DECISION NO.39946

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**Appearances:**

Tamara Adler, W4383 County Highway D, Sarona, Wisconsin, appearing on her own behalf.

Nicole M. Porter, 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 25, 2023, Tamara Adler filed an appeal with the Wisconsin Employment Relations Commission disputing an annual performance evaluation and denial of a wage increase. On July 14, 2023, DOC filed a motion to dismiss asserting that the Commission does not have jurisdiction over the appeal. Adler did not submit a reply by the given deadline of August 7, 2023.

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 11<sup>th</sup> day of August, 2023.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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

Adler is a Probation and Parole Agent for the DOC. In January 2023, Adler was denied a general wage adjustment (GWA) after not meeting expectations on her annual performance review dated November 14, 2022. Adler argues her performance had improved by January, and that she was told she was meeting expectations and would therefore be eligible for the wage increase. Ultimately, DOC did not approve the wage increase request. The appeal does not specify what statute might give the Commission jurisdiction over the matters.

Wis. 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 any matter related to wages, hours of work, and fringe benefits.<sup>1</sup> Similarly, Wis. Admin. Code § ER 46.07(1)(b), specifically excludes the Commission from hearing matters related to personnel performance evaluations.

Given the foregoing, the Commission concludes that it does not have jurisdiction to review the merits of the claim Adler has raised in her appeal. Therefore, the motion to dismiss has been granted and the appeal dismissed.<sup>2</sup>

Issued at the City of Madison, Wisconsin, this 11<sup>th</sup> day of August, 2023.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>1</sup> 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:

...  
(k) Any matter related to wages, hours of work, and fringe benefits.

<sup>2</sup> DOC also asserted that the Commission lacks competence to proceed as the appeal is untimely filed by Ms. Adler. Because the Commission concluded that it does not have jurisdiction to review the merits of Ms. Adler’s claim, it is not necessary to address the issue of competence.