

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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VICKI OBERG, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0619

Case Type: PA

DECISION NO. 40401-A

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**Appearances:**

Richard Peterson, 2055 South River Road, Rhinelander, Wisconsin appearing on behalf of Appellant and Vicki Oberg, 107 N. Stuyvesant Street, Merrill, Wisconsin, appearing on her own behalf.

Eric Muellenbach, Attorney, Department of Corrections, 3099 E. Washington Avenue, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

**ORDER ON REHEARING**

On October 10, 2024, the Wisconsin Employment Relations Commission issued a Decision and Order in this matter concluding that the State of Wisconsin Department of Corrections (DOC) had not acted illegally or abused its discretion when it did not hire Vicki Oberg. On October 18, 2024, Oberg filed a Petition for Rehearing pursuant to Wis. Stat. § 227.49 asserting that the Commission had made an error of law by failing to meet certain statutory obligations as to the timing of discovery and issuance of its October 10, 2024, Decision and Order. DOC filed a response opposing the Petition on October 21, 2024, and later that same day Oberg responded.

Having considered the matter, the Commission concludes that it did not make an error of law in its October 10, 2024, Decision and Order.<sup>1</sup>

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<sup>1</sup>The Wis. Stat. § 230.445 timelines cited by Oberg apply to appeals of disciplinary matters but not to appeals of hiring decisions governed by Wis. Stat. § 230.44 and Wis. Admin. Code Ch. ERC 93. The Commission's actions in this matter were in compliance with Wis. Stat. § 230.44 and Wis. Admin. Code Ch. ERC 93 – most importantly issued within the applicable 90-day period from the close of the record.

In her October 21, 2024, submission, Oberg again complains that the pre-hearing DOC summary rationale for not hiring Oberg (provided by DOC Attorney Muellenbach at the request of the Commission Examiner) differed from the

NOW, THEREFORE, it is

**ORDERED**

The Petition for Rehearing is denied.

Issued at the City of Madison, Wisconsin, this 28<sup>th</sup> day of October 2024.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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rationale DOC provided at hearing. Oberg asserts that difference establishes that she should win her appeal or, in the alternative, that she did not a reasonable opportunity to respond to and rebut the DOC hearing rationale. The Commission disagrees.

It is the evidence presented at hearing that governs the Commission's decision. Oberg was free to argue (as she did) that any difference between the pre-hearing summary rationale and the evidence at hearing shows that DOC was less than truthful at hearing. The Commission considered that argument when making its October 10 decision and did not find it persuasive. The Commission is also satisfied that Oberg had a reasonable opportunity to respond to and attempt to rebut the evidence presented at hearing by DOC.