

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ALAN HANEY, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0657

Case Type: PA

DECISION NO. 40414

Appearances

Alan Haney, 200 Dayton Street, Apt 206, Mayville, Wisconsin, appearing on his own behalf.

David Makovec, Attorney, and Kennedy C. Cutts, Student Attorney Intern, 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 5, 2024, Alan Haney filed an appeal with the Wisconsin Employment Relations Commission asserting he has been discharged without just cause by the State of Wisconsin Department of Corrections (DOC). On July 31, 2024, DOC filed a motion to dismiss the appeal as untimely filed. Haney did not file a reply to the motion by the given deadline of August 14, 2024.

Having considered the matter, the Commission is satisfied that the motion to dismiss should be granted.

NOW, THEREFORE, it is:

ORDERED

The appeal is dismissed.

Issued at the City of Madison, Wisconsin, this 24th day of September 2024.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

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

Alan Haney (Haney) received his Step 2 grievance decision via email on June 19, 2024. The decision indicates the “Date Returned” date as 6/19/2024. At the bottom of the Step 2 decision dated June 19, 2024, instructions for an appeal were outlined. “A timely appeal of a Step 2 decision must be filed with the Wisconsin Employment Relations Commission no later than 14 days after receiving DPM’s decision.” Haney’s deadline to file a timely appeal to DPM was July 3, 2024. Haney’s appeal was received by the Commission on July 5, 2024.

Under Wis. Stats. §§ 230.445(2) and 230.445(3)(c)1., an employee may not file an appeal with the commission later than 14 days after receiving the administrator’s (DPM’s Step 2) decision. If an employee does not file a complaint or appeal by the deadline, they waive their right to appeal the decision. *See* Wis. Stat. § 230.445(2). “[T]he Commission is obligated to apply the restrictions that are imposed upon it by the Wisconsin Statutes. The Commission may not consider the merits of an appeal merely because the Commission believes the underlying issue is particularly important, or because the failure to timely file the appeal was unintentional or caused by confusion.” *See Biggar v. DOC*, Dec. No. 31388 (WERC, 7/05).

There is no good cause exception in the statutes, and the equities do not favor waiving the 14-day time limit. The Department gave Haney clear instructions on how and when to file an appeal to his Step 2 decision. There was no effort, intentional or otherwise, to mislead him. The late filing was attributable to Haney’s lack of diligence.

Given the foregoing, the Commission concludes the motion to dismiss must be granted due to Haney’s failure to meet the statutory filing requirements contained in Wis. Stats. §§ 230.445(2) and 230.445(3)(c)1. His appeal was untimely filed to the Commission on July 5, 2024. Therefore, the appeal has been dismissed.

Signed at the City of Madison, Wisconsin, this 24th day of September 2024.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman