

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ANDREW COLIN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0641

Case Type: PA

DECISION NO. 40419

Appearances:

Andrew Colin, 108 W. Le Grand St., Boscobel, Wisconsin, appearing on his own behalf.

Nicole Porter, Attorney, Department of Administration, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER DISMISSING APPEAL

On May 15, 2024, Andrew Colin filed an appeal with the Wisconsin Employment Relations Commission regarding hazard pay by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

On August 29, 2024, the DOC made a motion to dismiss the appeal pursuant to Wis. Admin. Code § ER 28.04(1). Colin replied on August 30, 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 Madison, Wisconsin, this 24th day of September 2024.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Commissioner

MEMORANDUM ACCOMPANYING DECISION
AND ORDER DISMISSING APPEAL

Wisconsin Admin. Code § ER 28.04(1), establishes that an:

Application for benefits under s. 230.36, Stats., shall be made by the employee or the employee's representative to the appointing authority within 14 calendar days from the day of injury, on forms prescribed by the administrator. In extenuating circumstances, at the discretion of the administrator, the time limit for application for benefits may be waived. When medical verification is required for final approval of the claim, failure by a physician to provide verification within the 14 days shall not be the basis for denial. The application shall contain sufficient and factual information to indicate the nature and extent of the injury or illness, the circumstances surrounding its occurrence and the qualifying duties on which the application is based.

Colin was employed as a sergeant at Waupun Correctional Institution (WCI). He was injured on October 27, 2023, while on duty. After Colin was injured, human resources personnel gave him a packet of paperwork to complete, which included the “Request for Leave of Absence With Pay Due to Injury.” The Administrator of the Division of Personnel Management requires this form to request benefits under Wis. Stat. § 230.36.

Per Wis. Admin. Code § ER 28.04(1), Colin had 14 calendar days to complete his request for benefits. On October 27, 2023, Colin returned the packet, but did not complete the “Request for Leave of Absence With Pay Due to Injury” form. On April 10, 2024, Colin submitted a request for Wis. Stat. § 230.36 benefits. This was quite clearly submitted after the 14-day deadline had elapsed.

Colin argues that he was unaware that hazard pay existed, or that he was eligible for it. He argues that he did not understand what the forms meant. However, Colin was given all of the paperwork necessary to apply for benefits and should have asked the human resources personnel if he had any questions about the forms. Further, Colin argues that he was told to leave the “Request for Leave” blank, and that it could be completed once he returned to the institution. Despite being given this advice, Colin failed to complete the form.

Colin has presented no evidence that the Administrator of the Division of Personnel Management waived the 14-day filing requirement due to “extenuating circumstances.” Therefore, Colin’s application for benefits was untimely.

Given the foregoing, the motion to dismiss is granted and the appeal is dismissed.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Commissioner