

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JASON CARR, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0693

Case Type: PA

DECISION NO. 40741

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Appearances:

Jason Carr, S981 Ekes Drive, La Valle, Wisconsin, appearing on his own behalf.

Andrea Olmanson, Attorney, Department of Corrections, 3099 East Washington Ave., PO Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

**DECISION AND ORDER GRANTING MOTION TO DISMISS**

On November 19, 2024, Jason Carr filed an appeal with the Wisconsin Employment Relations Commission regarding his non-selection by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

On November 21, 2024, the DOC made a motion to dismiss the appeal pursuant to Wis. Stat. § 230.44(3). Carr replied on November 21, 2024.

Having considered the matter, the Commission is satisfied that the appeal should be dismissed.

NOW, THEREFORE, it is:

**ORDERED**

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

Issued at Madison, Wisconsin, this 6<sup>th</sup> day of February 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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

On October 18, 2024, at 7:57 a.m., Carr received an email informing him that he was not selected for a DOC facility repair position. Pursuant to Wis. Stat. § 230.44(3), an appeal must be filed with the WERC “within 30 days after the effective date of the action, or within 30 days after the appellant is notified of the action, whichever is later.”<sup>1</sup> Thirty days from the October 18, 2024, notice Carr received was November 17, 2024. However, because November 17, 2024, was a Sunday and the WERC offices are closed, Carr’s 30-day period for filing was extended to Monday, November 18.

Furthermore, pursuant to Wis. Stat. § 230.35(4)(f), state agency offices (including those of the WERC) close at 4:30 p.m., Monday through Friday. Therefore, any appeal filed after 4:30 p.m. is late and deemed to be filed the next day. Carr’s appeal was received by email at 8:36 p.m. on November 18 and thus was deemed filed on November 19, 2024 – one day late. *See Payne v. DOC*, Dec. No. 37799 (WERC, 2/19). Therefore, this appeal was untimely filed.

Carr complains that the WERC has been late in processing another of his appeals and that he should be given equal treatment. However, any delay he has experienced in another matter that he timely filed does not give the WERC the authority to extend a statutory deadline in this matter.

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

Issued at the City of Madison, Wisconsin, this 6<sup>th</sup> day of February 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>1</sup> For the purposes of a non-selection appeal, it is not the date a position is filled but rather the date an employee receives notice of non-selection that triggers the 30-day period.