

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JENNIFER KROHN, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0714

Case Type: PA

DECISION NO. 40769

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Appearances:

Jennifer Krohn, 624 W Main Street, Waupun, Wisconsin, appearing on her own behalf.

Nicole 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 January 22, 2025, Jennifer Krohn filed an appeal with the Wisconsin Employment Relations Commission regarding her discharge by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

On February 7, 2025, the DOC made a motion to dismiss the appeal pursuant to Wis. Admin. Code § ERC 91.08(1)-(3). Krohn replied on February 14, 2025.

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 18<sup>th</sup> day of March 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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

Wisconsin Admin. Code § ERC 91.08(3) states that, “[a]ny party may move at any time to dismiss a case on the ground the Commission does not have subject matter jurisdiction.” The appellant bears the burden of establishing the Commission’s subject matter jurisdiction. *See Renfrow v. DOC*, Dec. No. 33984-A (WERC, 4/2013).

Section 230.34(1)(a), Stats., provides in pertinent part the following as to certain employees of the State of Wisconsin:

“An employee with permanent status in class ... may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.”

Employees who are on probation do not have permanent status in class. *Board of Regents v. Personnel Commission*, 103 Wis. 2d 545 (Ct. App. 1981).

Krohn was hired as a Probation and Parole Agent at the Wisconsin Department of Corrections. Her appointment date was November 6, 2023, and her position required a one-year probationary period, which was originally scheduled to end on November 4, 2024. On October 25, 2024, Krohn’s original probation was extended to November 30, 2024, pursuant to § ER-MRS 13.05. Following an investigation, Krohn resigned from her position on November 11, 2024.

Krohn argues that the Commission has subject matter jurisdiction because her resignation was coerced, and therefore a constructive discharge. Coercion is defined as “an actual overriding of the judgment and will.” *See Peterson v. DNR*, Dec. No. 32605 (WERC, 11/2008). Here, however, Krohn was given the opportunity to resign after an investigation that recommended that she be discharged for serious misconduct. Krohn argues that she was strongly pressured to resign but, in fact, she requested the opportunity to resign after it became clear that she would be discharged.

Krohn argues that her probationary extension was incorrectly calculated. She argues that her extension was solely based on her use of leave time and did not consider her overtime hours worked. However, per Wis. Admin. Code § ER-MRS 13.05, the State is within its rights to extend her probation based on her leave time. Further, Krohn submitted no evidence that she has worked any overtime hours.

Krohn did not have permanent status in class and resigned from her position. Therefore, the Commission lacks subject matter jurisdiction over this appeal.

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

Issued at the City of Madison, Wisconsin, this 18<sup>th</sup> day of March 2025.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman