

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SHAWN SCHAEFER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0728

Case Type: PA

DECISION NO. 40870

Appearances

Shawn L. Schaefer, 811 Saint John Street, Cottage Grove, Wisconsin, appearing on his own behalf.

David Makovec, Attorney, 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 March 11, 2025, Shawn Schaefer filed an appeal with the Wisconsin Employment Relations Commission asserting he has been suspended for three days without just cause by the State of Wisconsin Department of Corrections (DOC). On March 21, 2025, DOC filed a motion to dismiss the appeal as untimely filed. Schaefer did not file a reply to the motion by the given deadline of March 31, 2025.

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 17th day of April 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

On February 10, 2025, Shawn Schaefer (Schaefer) was hand delivered his three-day suspension letter. The letter stated: “If you believe this action is not based on just cause, you may appeal it through the grievance procedure...Grievances must be submitted using the DPM Adverse Employment Action and Conditions of Employment Grievance form (DOA-15802)...The grievance must be received by DOC Employment Relations staff electronically to DOCBHRGrievances@wisconsin.gov, in person or via-inter-departmental mail no later than 14 calendar days after you became aware of, or should have become aware of, the decision that is the subject of the complaint. Schaefer’s deadline to file a timely appeal to commence his grievance was February 24, 2025. Schaefer filed his appeal on March 6, 2025.

Schaefer attempted to file his appeal by mail, which was received by a payroll and benefits specialist at the Division of Personnel Management (DPM) at the Department of Administration on February 14, 2025. That same day, DPM immediately sent Schaefer an email notifying him that he had sent his appeal to the incorrect address. DPM provided Schaefer the grievance appeal form DOA-15802, as an attachment to the email, as well as the DOC agency contact information and email address, DOCBHRGrievances@wisconsin.gov. On March 2, Schaefer again sent his appeal to the wrong location, using the wrong email address, DOADPMGrievance@wisconsin.gov. On March 3, Schaefer was again notified that he had submitted his appeal to the incorrect address and was informed of the correct address. On March 6, Schaefer submitted his appeal to the correct email address.

Under Wis. Stat. §§ 230.445(2) and 230.445(3)(a)1., to commence the grievance process for an adverse employment action, an employee shall file a complaint with the employee’s appointing authority challenging the adverse employment decision, no later than 14 days after the employee becomes aware of, or should have become aware of, the decision that is the subject of the complaint. 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 Schaefer clear instructions on how and when to file an appeal. There was no effort, intentional or otherwise, to mislead him. After being notified that his appeal was submitted to the wrong address on February 14, he made no attempts to file his appeal until after the deadline had expired. The late filing was attributable to Schaefer’s lack of diligence.

Given the foregoing, the Commission concludes the motion to dismiss must be granted due to Schaefer’s failure to meet the statutory filing requirements contained in Wis. Stat. §§ 230.445(2) and 230.445(3)(a)1. His appeal to commence the grievance process was untimely filed on March 6, 2025. Therefore, the appeal has been dismissed.

Issued at the City of Madison, Wisconsin, this 17th day of April 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman