

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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MICHAEL LANIER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0858

Case Type: PA

DECISION NO. 41283

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**Appearances:**

Michael Lanier, W6509 Grouse Drive, Endeavor, Wisconsin, appearing on his own behalf.

Nicole M. Porter, 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 December 11, 2025, Michael Lanier 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 December 15, 2025, DOC filed a motion to dismiss the appeal as untimely filed. Lanier filed a response to the motion that same day.

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 20<sup>th</sup> day of January 2026.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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Peter G. Davis, Chairman

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

Michael Lanier (Lanier) received his Step 2 grievance decision via email on November 26, 2025. The decision indicates the “Date Returned” date as 11/26/2025. At the bottom of the Step 2 decision dated November 26, 2025, 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.” Directions on How to Appeal the DPM Step 2 Response to the Wisconsin Employment Relations Commission (WERC) were also included with the Step 2 Response. “An employee’s appeal to the Wisconsin Employment Relations Commission (WERC) must be made in writing and filed with and received by the WERC within 14 calendar days from receipt of the DPM’s Step 2 response. An appeal must be filed with the WERC by close of business (4:30 p.m. CST) on the 14<sup>th</sup> calendar day, or it will be deemed untimely.” Additionally, the directions state that the appeal may be emailed to [werc@werc.state.wi.us](mailto:werc@werc.state.wi.us).

The last day for a timely appeal to the Commission within the 14-day deadline would have been December 10, 2025. Lanier’s appeal to the Commission was received on December 11, 2025, one day late. That is outside of the 14-day mandatory requirement set forth in Wis. Stat. § 230.445(3)(c)1.

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. Stats. § 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).

Furthermore, per Wis. Admin. Code § ERC 91.02(10), “[f]iling” means the physical receipt of a document at the commission’s office.

Here, Lanier mailed his written appeal to the WERC and argues that it was postmarked on December 9, 2025. He asserts that he provided 48 hours for the letter to travel a distance of 30 miles and therefore should have been received by the Commission timely. He contends that he should not be penalized for the tardiness of the postal service. He did not dispute that the appeal was not received by the WERC until December 11, 2025.

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

Given the foregoing, the Commission concludes the motion to dismiss must be granted due to Lanier'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 with the Commission on December 11, 2025. Therefore, the appeal has been dismissed.

Issued at the City of Madison, Wisconsin, this 20<sup>th</sup> day of January 2026.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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Peter G. Davis, Chairman