

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CALEB EBBOTT, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0887

Case Type: PA

DECISION NO. 41442

Appearances

Caleb Ebbott, 702 Linden St., Waukesha, Wisconsin, appearing on his own behalf.

Elizabeth Longo, Attorney, Wisconsin 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 February 12, 2026, Caleb Ebbott filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended without just cause by the State of Wisconsin Department of Corrections (DOC). On February 19, 2026, the DOC filed a motion to dismiss the appeal because grievance procedural requirements had not been met. The Appellant did not file a reply to the motion.

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 the City of Madison, Wisconsin, this 24th day of April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

Caleb Ebbott received a written reprimand in lieu of a 3-day suspension on December 18, 2025. Ebbott timely appealed the decision by filing a Step 1 Grievance on December 19, 2025. He listed his preferred email address as “caleb.ebbott@wisconsin.gov.” His grievance was denied via email on January 23, 2026. Ebbott timely filed a Step 2 Grievance on January 24, 2026. On January 28, 2026, his Step 2 Grievance was denied via email. The email notified him that a timely appeal of this decision “must be filed with the Wisconsin Employment Relations Commission no later than 14 days after receiving DPM’s decision” and included step-by-step instructions on how to do so. His appeal to the WERC was due by close of business (4:30 p.m.) on February 11, 2026, but Ebbott did not file his appeal until 10:01 a.m. on February 12, 2026.

The grievance process for demotion, suspension, discharge, layoff, or reduction in base pay found in Wis. Stat. § 230.445 states that:

(a) “Adverse employment decision” means a decision to demote, layoff, suspend without pay, discharge, or reduce the base pay of an employee.

(2) An employee may file a complaint under this section concerning the application of a law, rule, or policy to an adverse employment decision against the employee. If an employee does not file a complaint or an appeal by an applicable deadline under sub. (3), the employee waives his or her right to appeal the adverse employment decision under this subchapter.

(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 against the employee 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.

Failure to observe a statutory time limit deprives the Commission of competence to proceed. *See Stern v. WERC*, 2006 WI App 193 ¶¶26, 296 Wis.2d 306, 326, 722 N.W.2d 594. Per Wis. Stat. § 230.445(2), if an employee fails to follow the grievance procedure, they waive their right to appeal the adverse employment decision. Here, the deadline for Ebbott to file his appeal with the WERC was close of business on February 11, 2026. He did not file the appeal until the next day, February 12, 2026. Because Ebbott’s appeal was untimely, the Commission lacks competence to hear his appeal.

Ebbott failed to meet the statutory filing requirements contained in Wis. Stat. § 230.445. 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 April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman