

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LEAH HUBBARD, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0938

Case Type: PA

DECISION NO. 41481

Appearances

Leah Hubbard, 6906 Dale Drive, Unit 18, Caledonia, Wisconsin, appearing on her 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 DISMISSING APPEAL

On January 23, 2026, Leah Hubbard filed an appeal with the Wisconsin Employment Relations Commission (the WERC) regarding the decision of the State of Wisconsin Department of Corrections (DOC) not to hire her for the position of Institution Unit Supervisor. The WERC incorrectly opened this case against the State of Wisconsin Department of Administration, Case ID 315.0039. WERC correctly reassigns this matter against DOC, as Case ID 1.0938. On February 20, 2026, DOC filed a Motion for Summary Judgment seeking dismissal of the appeal. The parties thereafter filed written argument – the last of which was received June 2, 2026.

Having considered the matter, the Commission is persuaded that the Motion for Summary Judgment should be granted.

NOW, THEREFORE, it is:

ORDERED

The appeal is dismissed.

Issued at the City of Madison, Wisconsin, this 8th day of June 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER
DISMISSING APPEAL

Wisconsin Stat. § 230.44(1)(d), provides that “[a] personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the commission.” An illegal act is one that is contrary to Wisconsin civil service statutes or administrative rules. An abuse of discretion is when an agency exercises discretion “to an end or purpose not justified by and clearly against reason and evidence.” The appellant has the burden of proving that his or her non-selection was either illegal (contrary to Wisconsin civil service statutes or administrative rulings) or an abuse of discretion (not justified by and clearly against reason and evidence). *See Moeller-Bunker v. DWD*, Dec. No. 36786 (WERC, 5/17)

Hubbard sought what was ultimately corrected and denominated as a transfer from her position with the State of Wisconsin Department of Administration to an Institution Unit Supervisor position with the State of Wisconsin Department of Corrections (DOC). Hubbard did not receive the transfer based on DOC’s review of her disciplinary history and her recommendations.

Hubbard does not dispute the reasons why DOC rejected her transfer. Further, there is no reasonable basis for any dispute regarding the legitimacy of DOC’s consideration of the factors of disciplinary record and recommendation when deciding how to proceed as to a transfer request. While Hubbard is correct that there were missteps along the way as DOC considered her interest in the DOC position, none of those missteps are relevant to the issue of whether DOC ultimately denied her transfer for an illegal or arbitrary reason.

The Commission may summarily decide a case when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See Galligan v. DOC and DMRS*, Dec. No. 32987 (WERC, 2/10) quoting *Czynzak-Lyne v. OSER*, Dec. No. 32633 (WERC, 12/08). Here, there are no issues as to any material fact and thus no evidence of illegality or abuse of discretion when DOC denied Hubbard’s transfer request. Therefore, it is appropriate to grant the DOC motion for summary judgment and dismiss the appeal.

Issued at the City of Madison, Wisconsin, this 8th day of June 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman