

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Respondent.

No. 13251-C

MEMORANDUM ACCOMPANYING
ORDER DENYING REQUEST TO REOPEN PROCEEDING

Hearing in the above-entitled matter was scheduled by the Examiner on April 3, 1975. No one appeared for the Complainant at the time the hearing was commenced, thereupon the Examiner contacted Complainant's Counsel, who advised that the Complainant had indicated that he no longer desired to pursue the matter, and further, Complainant's Counsel advised that neither Counsel nor the Complainant intended to appear at the hearing. The Examiner thereupon advised the Complainant that the complaint would be dismissed with prejudice. On April 30, 1975, the Examiner received a letter from the Complainant indicating that the Complainant did not authorize his Counsel to dismiss the proceeding. Complainant also indicated he appeared at the Waukesha County Courthouse for the hearing on April 3, 1975 but was advised that it was cancelled.

Section 111.07(5) of the Wisconsin Statutes provides, in material part, as follows:

"Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time."

The records of the Commission indicate that a copy of the dismissal was sent to the Complainant by certified mail on April 3, 1975. The Complainant's request to reopen the proceeding was received by the Examiner on April 28, 1975, more than twenty days after the Examiner had issued his Order of Dismissal. It should be further noted that the Commission did not take any action to set aside, reverse or modify the Examiner's decision. Therefore, in accordance with Section 111.07(5), the Examiner's Order became the Order of the Commission on at least April 24, 1975, and, as a result, the Complainant's request to reopen the matter is deemed untimely, and the Commission will not consider the merits, if any, of the Complainant's request to reopen the proceeding.

Dated at Madison, Wisconsin, this 9th day of May, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner