

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTIONS TO SEVER
AND TO POSTPONE AND GRANTING MOTION
TO EXTEND TIME TO ANSWER

On May 6, 1980 Respondent made the following motions:

MOTION TO SEVER

Now comes the Respondent State of Wisconsin by its Department of Employment Relations and its Attorney Thomas E. Kwiatkowski, as and for a motion in the above-captioned case alleges the following:

1. That the facts, events and transactions called into issue in the allegations of paragraphs 4 through 6 of the Complaint constitute a distinct and separate complaint from those facts, events and transactions called into issue in the allegations of paragraphs 7 through 12 of the Complaint.
2. That the executive department of the State of Wisconsin responsible for the implementation of the parking policy alleged in paragraphs 4 through 6 of the Complaint is the Department of Administration.
3. That the executive department of the State of Wisconsin responsible for the implementation of the holiday closings alleged in paragraphs 7 through 12 of the Complaint is the Department of Employment Relations.
4. That the facts, events and transactions relative to paragraphs 4 through 6 of the Complaint are independent of the facts, events and transactions relative to paragraph 7 through 12 of the Complaint.
5. That extreme prejudice to the State's preparation and presentation of an effective and coherent case would result from a consolidated hearing on two such separately and independently based issues.

Therefore, the Respondent respectfully moves that the Examiner, pursuant to ERB 20.07, Wisconsin Administrative Code, sever any hearing on the allegations of paragraphs 4 through 6 of the Complaint from any hearing on the allegations of paragraphs 7 through 12 of the Complaint.

MOTION TO EXTEND TIME TO ANSWER AND POSTPONE HEARING

Now comes the Respondent State of Wisconsin by its Department of Employment Relations and its Attorney Thomas E. Kwiatkowski, and as regards the above-captioned case makes the following motion:

In light of the Respondent's Motion to Sever, the Respondent respectfully moves that the Examiner, pursuant to ERB 20.08(3) and ERB 20.12(1), Wisconsin Administrative Code, extend the time for answering and postpone the hearing.

ERB 20.07, Wisconsin Administrative Code, states:

ERB 20.07 Transfer, consolidation and severance of proceedings. Whenever the commission deems it necessary, in order to effectuate the purposes of subchapter V of chapter 111, Wis. Stats., or to avoid unnecessary costs or delay, it may remove or transfer any proceeding before a single commission member or examiner. Proceedings under several sections of such subchapter may be combined or severed.

Having considered Respondent's Motion to Sever, the Examiner has concluded that said motion should be denied inasmuch as the presence of two separate allegations within the same complaint does not create the "necessity" for severance or the likelihood of unnecessary costs or delay. Indeed to avoid unnecessary costs and delay, the Examiner has also denied the Motion to Postpone which was premised upon the Motion to Sever. The Answer deadline has, however, been extended from May 16, 1980 to May 20, 1980.

Dated at Madison, Wisconsin this 12th day of May, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Peter G. Davis, Examiner

emw'