

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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CITY OF BROOKFIELD, LIBRARY :  
EMPLOYEES, LOCAL 20 OF :  
WISCONSIN COUNCIL 40, :  
AFSCME, AFL-CIO, :  
Complainant, : Case 49  
vs. : No. 31445 MP-1426  
CITY OF BROOKFIELD (LIBRARY), : Decision No. 20702-C  
Respondent. :  
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Appearances:

Lawton & Cates, Attorneys at Law, 110 East Main Street, Madison, Wisconsin 53703-3354, by Mr. Richard V. Graylow, appearing on behalf of the Complainant.  
Godfrey, Trump & Hayes, Attorneys at Law, 250 East Wisconsin Avenue, Suite 1200, Milwaukee, Wisconsin 53202, by Mr. Tom E. Hayes, appearing on behalf of the Respondent.

ORDER DENYING PETITION FOR REHEARING

The Wisconsin Employment Relations Commission having, on April 10, 1986, issued its Order Modifying Examiner's Findings of Fact, Conclusions of Law and Order in the above matter wherein Respondent City of Brookfield was found to have committed a prohibited practice within the meaning of Secs. 111.70(3)(a)3 and (derivatively) (3)(a)1, Stats., and ordered to take certain remedial action; and Respondent City of Brookfield having, on April 22, 1986, filed a Petition for Rehearing pursuant to Sec. 227.12, Stats., alleging that the Commission:

made a material error in fact in finding:

- (1) That Helm requested a leave of absence for a definite period of time;
- (2) That the Respondent was hostile to Helm in respect to her activities, and
- (3) That the Respondent could reasonably have foreseen that a refusal of Helm's request for a leave of absence would increase the likelihood of her failure to report as scheduled,

and a material error in law in accepting hearsay, twice removed, as creditable evidence.

and Complainant AFSCME having, on April 30, 1986, filed a statement with the Commission urging denial of the Petition; and the Commission having considered the matter and concluded that the matters cited in the Respondent's Petition are not

material errors of fact or law and that the Commission's April 10 Order and accompanying Memorandum adequately set forth the basis for the rejection of Respondent's assertions in its Petition;

NOW, THEREFORE, it is

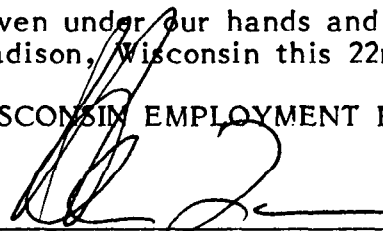
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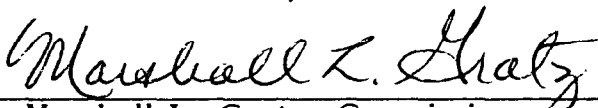
That the Petition for Rehearing is denied.

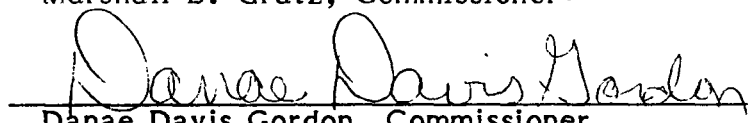
Given under our hands and seal at the City of  
Madison, Wisconsin this 22nd day of May, 1986.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Chairman

  
Marshall L. Gratz, Commissioner

  
Danae Davis Gordon, Commissioner

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1/ Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.