

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WISCONSIN COUNCIL 40, AFSCME,	:	
AFL-CIO, TONI CAGLE, BRUCE CHAPMAN,	:	
JEAN ELLIOT, DARLENE FUNK, MIMA	:	
LORBERBLATT-TESKE, JOHN NANNEY,	:	
KATHY PLAMER, GEORGE PRONOLD, STEVE	:	
RICE, JULIE SOWERS, DOUG STANGEL,	:	
NANCY VERRIER AND MARK ZIMONICK,	:	
	:	
Complainants,	:	Case 207
	:	No. 31845 MP-1495
	:	Decision No. 20857-E
vs.	:	
	:	
BROWN COUNTY,	:	
	:	
Respondent,	:	
	:	
and	:	
	:	
LLOYD BRAZEAU,	:	
	:	
Co-Respondent.	:	
	:	

Appearances:

Lawton & Cates, S.C. Attorneys at Law, by Mr. Richard V. Graylow, 214 West Mifflin Street, P.O. Box 2965, Madison, WI 53701-2965, appearing on behalf of the Complainants.

Mr. Kenneth Bukowski, Corporation Counsel, Brown County, County Courthouse, Green Bay, WI 54305 and Michael, Best & Friedrich, Attorneys at Law, by Mr. Thomas P. Godar, One South Pinckney Street, P.O. Box 1806, Madison, WI 53701-1806, appearing on behalf of Respondents.

Ms. Jean Elliot, 1920 Strawberry Lane, Green Bay, WI 54304, appearing on her own behalf.

ORDER DENYING PETITION FOR REHEARING

On May 25, 1993 the Wisconsin Employment Relations Commission issued Findings of Fact, Conclusions of Law and Order Determining Back Pay Entitlement in the above matter.

On June 17, 1993, Complainant Jean Elliot filed a petition for rehearing pursuant to Sec. 227.49, Stats., asserting the Commission had incorrectly determined that she was not entitled to backpay because she would have been laid off during the period in question.

On July 6, 1993, the attorney for the other named Complainants advised the Commission by letter that "the Union" took no position as to the petition.

On July 12, 1993, Brown County filed a written response with the Commission opposing the petition.

The Commission has reviewed the matter and concluded that it did not make a material error of law or fact as to Ms. Elliot's backpay entitlement and that Ms. Elliot has not presented new evidence which could not have been previously discovered by due diligence and which is sufficiently strong to modify or reverse the Commission's Order in her regard.

NOW, THEREFORE, it is

The petition for rehearing is denied.

Given under our hands and seal at the City of
Madison, Wisconsin this 16th day of July, 1993.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(Footnote continued on page 3)

1/ (Footnote continued from page 2)

(a) Proceedings for review shall be instituted by serving a petition therefore 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. 227.49, 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. 227.48. If a rehearing is requested under s. 227.49, 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. 77.59(6)(b), 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.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

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.