

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 :
 In the Matter of the Petition of :
 :
 NORTHERN EDUCATIONAL SUPPORT TEAM : Case 5
 : No. 46338 ME-3164
 : Decision No. 27099-B
 Involving Certain Employees of :
 :
 PHELPS SCHOOL DISTRICT :
 :

Appearances:

- Mr. Gene Degner, Director, Northern Educational Support Team, P. O. Box 1400, Rhinelander, Wisconsin 54501, appearing on behalf of the Union.
- Mr. Thomas L. Strick, District Administrator, Phelps School District, P. O. Box 6, Phelps, Wisconsin 54554, appearing on behalf of the District.
- Mr. Eugene Waller, 2855 Deerskin Park Road, Eagle River, Wisconsin 54521, appearing on his own behalf.

ORDER DENYING PETITION FOR REHEARING

On January 22, 1992, the Wisconsin Employment Relations Commission issued a Certification of Representative which concluded, inter alia:

2/ One ballot was received by the Commission on January 14, 1992. Consistent with the Notice of Election sent to all eligible voters, the ballots were counted in the Commission's Madison office on January 9, 1992, at 11:00 a.m. Pursuant to Flambeau School District, Dec. No. 26238-A (WERC, 5/90), the Commission has determined that said ballot shall remain sealed.

On January 31, 1992, Mr. Gene Waller, whose ballot was received January 14, 1992, filed a Petition for Rehearing pursuant to Sec. 227.49, Stats., asking that his ballot be counted. Written statements in support of and in opposition to the Petition were received by February 17, 1992. The Commission has considered the matter and concluded that it was correct when it determined that Waller's ballot should not be counted.

NOW, THEREFORE, it is

ORDERED 1/

The Petition for Rehearing is denied.

Given under our hands and seal at the City
of Madison, Wisconsin this 26th day of
February, 1992.

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 judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

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.

(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. 227.49, 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

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(footnote continued on page 3.)

1/ (footnote continued from page 2.)

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.