

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

STEFANIE RODEN, Complainant,

vs.

**AFSCME COUNCIL 24 and UNIVERSITY
OF WISCONSIN-MADISON**, Respondent.

Case 461
No. 56623
PP(S)-293

Decision No. 31965-C

Appearances:

Stefanie Roden, P.O. Box 693, Daleville, Virginia 24083, appearing on her own behalf.

Kurt C. Kobelt, Lawton & Cates, P.O. Box 2965, Madison, Wisconsin 53701-2965, appearing on behalf of AFSCME Council 24.

David J. Vergeront, Chief Legal Counsel, Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of the State of Wisconsin.

ORDER DENYING PETITION FOR REHEARING

On July 19, 2007, the Wisconsin Employment Relations Commission issued an Order dismissing a complaint filed by Stefanie Roden alleging that the State of Wisconsin had committed an unfair labor practice within the meaning of the State Employment Labor Relations Act (SELRA) by terminating her employment on March 29, 1996 and that the Wisconsin State Employees Union (WSEU) had also violated SELRA by refusing to pursue her termination grievance to grievance arbitration.

In our the Memorandum accompanying the Order, we held that dismissal was warranted for lack of prosecution and concluded that there was no good cause for Roden's delay in proceeding and that the State and WSEU have been prejudiced by said delay.

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On August 7, 2007, Roden filed a petition for rehearing asserting that the Commission's July 19, 2007 Order contained errors of law and fact.

On August 9 and August 15, 2007, the State and WSEU respectively filed statements in opposition to the petition. On August 20, 2007, Roden filed a reply to these statements.

Having considered the matter, we conclude that our July 19, 2007 Order did not contain any errors of law or fact and that said Order responded to the arguments raised on rehearing by Roden. We do note that to the extent Roden asserts the Commission should not presume that the passage of time would have a negative and prejudicial impact on witness recollection, we think that presumption is more than warranted given the passage of more than 10 years from the date of Roden's termination to the date of her request to proceed to hearing.

NOW, THEREFORE, it is

ORDERED

The petition for rehearing is denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 6th day of September, 2007.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

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