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FRANCIS JACOBSON,  
 Appellant,

v.

PHILIP LERMAN, Chairman,  
 Department of Industry, Labor  
 and Human Relations,  
 Respondent.

Case No. 74-124

\* \* \* \* \*

701 101

OPINION  
 AND  
 ORDER

Before JULIAN, Chairman, Writing for Himself and Members SERPE and WILSON.

The Appellant, Francis Jacobson, is employed in the Milwaukee Office of the Employment Security Division of the State Department of Industry, Labor and Human Relations and is connected with the Work Incentive Program. Appellant was suspended from his employment for two (2) weeks from October 27, 1974, through November 9, 1974. Appellant was notified of the disciplinary action taken against him by letter of October 11, 1974, which was signed by Mr. F. G. Walsh, Appellant's Division Administrator and an Appointing Authority, joined by Mr. William A. Johnson, a Commissioner of the Department. Appellant appealed his suspension to this Board in an appeal letter dated November 10, 1974, and received by the Board on November 12, 1974.

Appellant's counsel noticed his appearance in this case by letter to the Board of February 4, 1975, by which time it is reasonable to believe counsel had knowledge of the contents of the disciplinary notice served on Appellant several months before. The matter had already on January 14, 1975, been set for hearing in

Milwaukee on March 4, 1975, before Board Member Nellie E. Wilson sitting as hearing officer. Appellant's counsel stated that he understood the foregoing to be the place and time of the hearing in this case in his notice of appearance of February 4, 1975, referred to above and added: "This is fine with us." At the eleventh hour before the hearing in this matter, Appellant by his counsel has interposed a "Motion to Void Suspension" and has requested that the case be adjourned until such time as the Board shall have disposed of the said motion and, if decided unfavorably to Appellant, until such time as Counsel can adequately prepare his case on behalf of his client, the Appellant, if -- as counsel adds -- that is possible.

Upon review of the disciplinary notice and the entire record herein, we find:

1) That the said motion is untimely in that the date of this hearing has been set for some time and the motion filed on the afternoon of February 27, 1975, came at an unreasonably short time before the hearing in the matter;

2) That even if the motion were timely, the disciplinary notice served on Appellant in this case is adequate when judged in the light of Beauchaine v. Schmidt, Wis. Pers. Bd. Case No. 73-38 (October 18, 1973). See Karetski v. Hill (II), Wis. Pers. Bd. Case No. 10 (October 18, 1973); Bohen v. McCartney, Wis. Pers. Bd. Case No. 74-1 (October 10, 1974), order affirmed sub nom. McCartney v. Wisconsin State Personnel Board, Dane Co. Cir. Ct. Case No. 144-439 (February 3, 1975); Reis v. Weaver, Wis. Pers. Bd. Case No. 74-27 (February 19, 1975); Zehner v. Weaver, Wis. Pers. Bd. Case No. 74-98 (February 25, 1975).

For the foregoing reasons, the Appellant's motion will be denied.

ORDER

IT IS THEREFORE ORDERED:

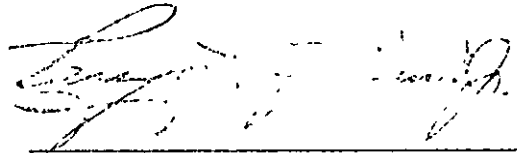
1) That the motion of the Appellant to void his suspension and to adjourn the hearing in this case is denied;

2) That the hearing in this case, set for 10:00 a.m. on Tuesday, March 4, 1975, in the City of Milwaukee, shall go forward as scheduled.

Dated February 28, 1975

STATE PERSONNEL BOARD

By

A handwritten signature in dark ink, appearing to read 'Percy L. Julian, Jr.', is written over a horizontal line.

Percy L. Julian, Jr., Chairman