

STATE OF WISCONSIN

STATE PERSONNEL BOARD

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ALMA R. CHAYKA,

Appellant,

v.

JOHN C. WEAVER, President,
University of Wisconsin,

Respondent.

Case No. 75-118

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OFFICIAL

INTERIM DECISION

Before: JULIAN, Chairperson, SERPE, WILSON and DEWITT, Board Members.

DECISION

Appellant was a probationary employee employed by the University of Wisconsin-Madison, Physical Plant Division. By letter dated September 29, 1975 and signed by John R. Erickson, Supervisor of Operations, Appellant was terminated effective September 26, 1975. On October 10, 1975 Appellant through Anthony M. Bonanno, President, UW Employees Union Local 171, filed an appeal from her termination based on the new union contract.

A prehearing conference was held on November 13, 1975. Appellant appeared personally and with a union representative, Ron Kent. Respondent appeared by his attorney, Donald Murphy. Respondent objected to the Personnel Board's subject matter jurisdiction. A briefing schedule was set up whereby Appellant was to file her brief in support of the Board's jurisdiction within 15 working days. Respondent had 15 working days after Appellant's brief was filed to file his response.

By letter dated November 25, 1975 the Board was informed by Richard V. Graylow of the law firm of Lawton & Cates that he would be representing Appellant. Mr. Graylow requested at that time that copies of all the exhibits in the case be sent to him. The exhibits were sent on December 10, 1975.

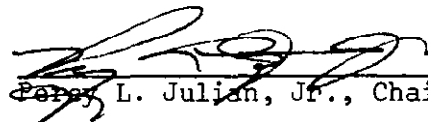
On December 15, 1975 Mr. Graylow filed Appellant's brief in support of the Board's taking jurisdiction of this appeal. On December 22, 1975 Respondent filed his objection to the Board's accepting Appellant's brief inasmuch as it was late.

In Graham v. Weaver, Personnel Board 75-124, March 11, 1976 a similar objection to an untimely brief was raised. There, we held that we would accept the brief because of past practices and the circumstances of the case. However, we also warned that "in the future delinquent filings may be subject to rejection." (Graham, supra, p. 4.)

We feel that Graham controls this case. The issue on the acceptance of the untimely briefs arose at the same time in both cases. The same considerations of past Board practices apply. Further, under the facts of this case as presented above there was no undue delay. Therefore, although we reaffirm our warning regarding briefs filed late in the future we conclude that we will accept the jurisdictional brief filed by Appellant.

Since Appellant filed her brief 30 days after the date of the conference, Respondent will have 30 days from the date of this decision to respond thereto.

Dated April 19, 1976. STATE PERSONNEL BOARD


Percy L. Julian, Jr., Chairperson