

STATE OF WISCONSIN

STATE PERSONNEL BOARD

 DONALD ADRIANSEN,
 Appellant,
 v.
 VIRGINIA HART, Chairperson,
 Department of Industry, Labor and
 Human Relations,
 VERNE KNOLL, Deputy Director,
 State Bureau of Personnel,
 Respondents.
 Case No. 76-79

OFFICIAL

OPINION
AND
ORDER

Before: DeWitt, Chairperson, Wilson, Warren and Hessert, Board Members

This case was initiated by letters from the appellant to the board dated April 21 and 24, 1976. These letters referred at various points to a requested "appeal" or investigation of a selection process conducted by appellant. On May 21, 1976, the board declined to conduct an investigation into this matter. By letter of June 14, 1976, the appellant requested that it be processed as an appeal. By letter of June 17, 1976, appellant stated that he had changed his mind and wished to drop his appeal. On June 30, 1976, the appeal was dismissed by order of the board which simply recited that the dismissal was at the request of the appellant. This proceeding was handled in a confidential manner pursuant to stipulation. See order entered July 28, 1976, Section PB3.03(2), W.A.C., Section 16.05(2), Wisconsin stats.

By letter received February 28, 1977, the appellant requested that his appeal be reopened and the file "unsealed" or opened to the public. The respondent DILHR objected to reopening the appeal because the order dismissing the appeal was final and unconditional. The appellant now contends that he filed the June 17, 1976, letter dropping the appeal because he had been promised another position as Equal

Rights Officer - III, but that he had not been promoted as promised. There is no written documentation of such a promise in the file, except for appellant's allegations made now.

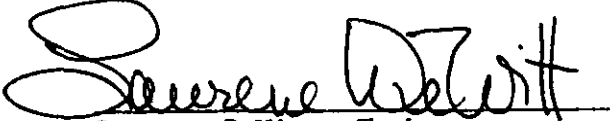
In cases such as this where there is no written record of any agreement underlying a dismissal order, and where the dismissal order itself make no mention of any agreement, stipulation, or condition, normally a party would not be permitted to reopen the case on the basis of an alleged verbal promise that induced the dismissal but was not kept. Exceptions to this general rule are within the sound administrative discretion of the board. The appellant in this case was not represented by counsel at or prior to the dismissal. While we decline at this time to formally reopen this appeal we will provide the appellant an opportunity to present evidence relative to the afore said alleged promise of promotion, at an evidentiary hearing which will be limited to this point, and at which respondent will have the opportunity to present opposing evidence. Since there is no longer a request for confidentiality, the file and all further proceedings will be open to the public.

ORDER

It is ordered that an evidentiary hearing be convened at which the parties may present evidence concerning the appellant's allegation that he was promised but denied a promotion to Equal Rights Officer - III.

Dated August 1, 1977.

STATE BUREAU OF PERSONNEL


Laurene DeWitt, Chairperson