

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*  
 \*  
 JOHN JAMES HAULE, \*  
 \*  
                   Complainant, \*  
 \*  
 v. \*  
 \*  
 Chancellor, UNIVERSITY OF \*  
 WISCONSIN - MILWAUKEE, \*  
 \*  
                   Respondent. \*  
 \*  
 Case No. 85-0166-PC-ER \*  
 \*  
 \* \* \* \* \*

DECISION  
AND  
ORDER

The following facts appear to be undisputed and were drawn from correspondence from the parties and other documents in the case file:

1. On December 12, 1985, complainant filed a charge of discrimination with the Commission alleging that he had been discriminated against on the basis of race and sex by the University of Wisconsin - Milwaukee in regard to his starting salary, and the denial of certain resources complainant deemed necessary for the research he was to conduct.

2. On January 8, 1986, complainant filed an amendment to such charge of discrimination alleging discrimination on the basis of national origin or ancestry, race, color, and sex by the UW-Milwaukee in regard to the filing of sexual harassment charges against complainant by the UW-Milwaukee.

3. On February 5, 1986, the Commission received a letter from complainant which stated: "I hereby advise you that I wish to withdraw the complaint previously filed by me against various persons at the University of Wisconsin - Milwaukee."

4. In an order dated February 19, 1986, the Commission dismissed complainant's charge of discrimination.

5. On April 15, 1987, the Commission received a letter from complainant requesting that his original charge of discrimination be reinstated. Complainant stated in such letter that he had withdrawn his original charge of discrimination as part of a settlement agreement with the UW-Milwaukee but the complaint should be reinstated because the UW-Milwaukee had breached such agreement. In this same letter, complainant requested an investigation of his "entire case," including actions of the UW-Milwaukee relating to the sexual harassment charges filed against complainant and "the conduct of the then Chairman of the Mass Communication Department at UWM, Professor Berkman" who complainant alleged had mistreated complainant in various meetings Dr. Berkman had with students in the department during which he allegedly told them "bad" things about complainant as well as in various letters he wrote complainant.

6. In a letter received by the Commission on July 13, 1987, complainant reiterated the reasons he felt that the UW-Milwaukee had breached the above-referenced settlement agreement and added that his resignation pursuant to such settlement agreement was not voluntary but that he was coerced into resigning as the result of certain personal financial factors.

Once the Commission issues a final order dismissing a case, the Commission only has jurisdiction to reopen the case on a petition for rehearing if it is filed with the Commission within 20 days of the order (see §227.49, Stats.) In the instant case, regardless of the merits of complainant's arguments in support of his request that his original complaint be reinstated, more than 20 days elapsed between the Commission's February 19, 1986, order of dismissal and complainant's April 15, 1987,

request for reinstatement of his original charge of discrimination, and the Commission, therefore, does not have the authority to grant complainant's request.

Complainant also requested that the Commission enforce the terms of the subject settlement agreement. The Commission has made clear in a recent decision (Janowski/Conrady v. DER, Case Nos. 86-0125-PC and 86-0126-PC) 10/29/86), that, regardless of what enforcement authority exists in other forums, the Commission does not have the express or implied authority to enforce such agreements.

Finally, it is not possible to ascertain from complainant's letters to the Commission whether he wished only to reinstate his original charge of discrimination or whether he wished to make additional allegations not included in such original charge. Specifically, complainant refers to the conduct of Professor Berkman. It appears as though complainant intended such additional allegations to constitute amendments to his original charge. However, the Commission has already determined it does not have the authority to "reinstate" such charge and this would of course relate to any subsequent amendments as well.

ORDER

Complainant's request to reinstate his original charge of discrimination is denied. Complainant's request to have the Commission enforce the terms of the subject settlement agreement is denied.

Dated: August 26, 1987 STATE PERSONNEL COMMISSION

LRM:jmf  
JMFO4/2

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

Parties:

John J. Haule  
2557 North Bartlett Avenue  
Milwaukee, WI 53211

Frank E. Horton, Chancellor  
UW-Milwaukee, Chapman Hall  
P. O. Box 413  
Milwaukee, WI 53201