

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *

HATTIE BILLINGSLEY, *

Complainant, *

v. *

Secretary, DEPARTMENT OF *

REVENUE, *

Respondent. *

Case No. 87-0132-PC-ER *

* * * * *

DECISION
AND
ORDER

This matter is before the Commission as a complaint of discrimination based on race.

A review of the Commission's file shows the following:

1. On September 16, 1987, complainant filed a complaint of discrimination arising from an alleged (a) denial of an opportunity to transfer, (b) denial of an opportunity to apply for computer audit specialist staff position, and (c) failure to be assigned any travel audits or special projects resulting in a less than superior merit rating.

2. After conciliation efforts were unsuccessful, respondent, by letter dated January 20, 1988, raised certain questions regarding the timeliness of certain allegations and requested a clarification of the discriminatory action being complained of.

3. By letter dated April 14, 1988, a representative of the Commission wrote the complainant and asked her to respond to respondent's letter and to clarify her charge by May 5, 1988.

4. Via a telephone conversation on April 18, 1988, the complainant was granted an extension until May 16, 1988 to respond to the April 14th letter.

5. After not receiving any response, the Commission mailed the complainant a certified letter on May 24, 1988 which stated, in part, as follows:

Do you wish to proceed with the complaint? If you do, please submit the information requested in the April 14, 1988 letter (copy attached). The information must be submitted within 20 calendar days of the date of this letter. If you fail to respond within the 20 day time period, I will recommend that the case be dismissed pursuant to s.111.39(3), Stats., which relates to claims filed under the Fair Employment Act:

The (commission) shall dismiss a complaint if the person filing the complaint fails to respond within 20 days to any correspondence from the (commission) concerning the complaint and if the correspondence is sent by certified mail to the last known address of the person.

6. The complainant received the letter on May 26th.

7. On June 14, 1988, the twenty-first day after the letter was mailed, the complainant telephoned the Commission and said she was placing a response into the mail.

8. On June 15, 1988, the Commission received a letter from the complainant which indicated that she wished to pursue her complaint. Complainant reiterated her original complaint and stated that she wished to amend that complaint to include other unspecified allegations, but did not clarify the complaint.

DISCUSSION

After receiving the complainant's letter on June 15th, the parties were provided an opportunity to file written arguments to be considered relative to whether complainant had responded timely to the May 24th letter. The complainant did not file any arguments.

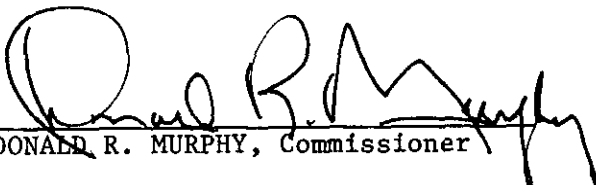
The above-quoted language from s. 111.39(3), Stats., provides that the commission shall dismiss the complaint if no timely response is received. The statute also indicates that the 20 day period is to commence on the date the certified letter is sent to the person's last known address rather than on the date of the receipt of the certified letter by that person. Otherwise a complainant could keep his or her case open indefinitely simply by refusing to accept any certified mail from the Commission. Jackson v. DHSS, 87-0149-PC-ER, 3/10/88. Because the response was not received by the Commission within the statutory time period, the Commission enters the following

ORDER

This matter is dismissed for lack of prosecution.

Dated: July 13, 1988 STATE PERSONNEL COMMISSION

KMS:rcr
DPM/2


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner

Parties:

Hattie Billingsley
2329 North Grant Boulevard
Milwaukee, WI 53210

Karen Case
Secretary, DOR
P.O. Box 8933
Madison, WI 53707