



STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 KIM NASH, *
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 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 NATURAL RESOURCES and *
 Administrator, DIVISION OF *
 MERIT RECRUITMENT AND *
 SELECTION, *
 *
 Respondents. *
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 Case Nos. 88-0117-PC *
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INTERIM
ORDER

This matter arises from the respondent's decision denying the appellant the opportunity to continue in the examination process for a vacant position. At a prehearing conference held on October 3, 1988, the appellant requested that the hearing process be accelerated so that the Commission could issue a decision before the vacancy was filled. The respondent opposed any acceleration of the normal hearing process.

The Commission has considered the written arguments filed by the parties. If the Commission were to deny the appellant's request, he would lose any opportunity to obtain effective relief from the Commission, regardless of the merits of his appeal. The effect of §230.44(4)(d), Stats., would be to prevent the Commission from ordering the incumbent removed. This limitation on the Commission's authority is unaffected by §230.28(1)(a), Stats.

Therefore, the Commission will contact the parties for the purpose of scheduling a hearing to be held as early in the week of October 10, 1988 as is possible. The Commission further finds that the prospect of losing an

opportunity for any meaningful remedy generates an "emergency" as that term is used in §227.44, Stats., thereby avoiding the 10 day notice of hearing requirement. The Commission will also designate a hearing examiner to conduct the hearing and to issue a decision that shall be the final decision of the Commission pursuant to §227.46(3)(a), Stats.

Dated: October 5, 1988 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner

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