

conference letter and to have her supervisor call the Commission with any questions.

4. The prehearing conference was held on June 7, 1993, with both parties appearing. Complainant appeared personally and without a new attorney. Both parties agreed to schedule the hearing on September 24 and 27, 1993, and October 1, 1993.

5. A written report of the prehearing conference was mailed to the parties on June 16, 1993. The conference report warned that hearing postponements would be granted only for good reason and that proper preparation for the hearing required substantial time and effort. The complainant received further information on this last point with the enclosure entitled: "Instructions for Unrepresented Appellants".

6. The complainant initiated no contacts with the Commission up through August 1993. On or about September 1, 1993, the assigned hearing examiner, Judy M. Rogers, attempted to contact the parties to determine whether the parties intended to proceed to hearing. The only phone number the Commission had for complainant was her home telephone number, but no one answered there. Pursuant to the examiner's request, respondent provided complainant's work telephone number on September 2, 1993.

7. The hearing examiner reached complainant at work by telephone on September 3, 1993, at which time complainant mentioned she did not have an attorney but still was waiting for a final response from one attorney. Complainant agreed to let the examiner know by September 8, 1993, whether an attorney agreed to represent her and, if not, whether she wished to proceed to hearing representing her own case.

8. On September 8, 1993, complainant called the hearing examiner stating she was unsuccessful retaining an attorney and, therefore, wished to request a hearing postponement from the full Commission at the next Commission meeting which was scheduled for September 15, 1993. The reasons offered for the request were to give her additional time to find an attorney, or to prepare to present the case herself. Her written request was received by the Commission on September 10, 1993. The respondent's reply opposing the request was filed on September 13, 1993.

DISCUSSION

A request for hearing postponement is governed by PC 5.02, Wis. Admin. Code, which provides, in pertinent part, as follows:

Requests for continuances of a hearing date shall only be granted upon a showing of good cause and after consideration of any hardship on the other parties.

Complainant contends the postponement is necessary for her to either retain counsel or to adequately prepare for hearing representing herself. Under all the circumstances present, these reasons are insufficient to constitute "good cause" within the meaning of PC 5.02, Wis. Admin. Code.

Complainant has had sufficient time to either retain counsel or to prepare for hearing herself. She agreed to the hearing dates and should have known of the importance of being prepared to go forward with her appeal, whether she successfully retained counsel or not.

Three dates were reserved for complainant's case which represents a significant investment of hearing resources at the Commission. The hearing-date time investment also was committed by respondent; as well as the time needed for respondent to prepare for hearing and to present its employees as witnesses over the three-day hearing.

This is complainant's appeal and, as noted above, significant time has been committed by the Commission and respondent to ensure that complainant has a full and fair opportunity to litigate her claim. Despite these efforts, complainant did not notify the Commission or respondent that counsel was not retained or that she was reluctant to represent herself. She kept this information to herself until the hearing examiner telephoned for a status update on September 3, 1993. To grant complainant's postponement request would reward the complainant's recalcitrant behavior and this the Commission refuses to do.

As noted in the prehearing conference report, witness lists and exhibits must be received by the Commission and opposing party on or before September 21, 1993. Time and money is invested by the parties to comply with this requirement, as is true for most additional hearing preparation. Such resources are not insignificant and should not be wasted unnecessarily. The

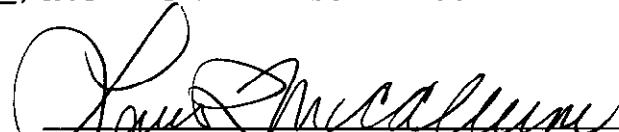
Commission is concerned that such waste could occur if complainant decides not to proceed to hearing.

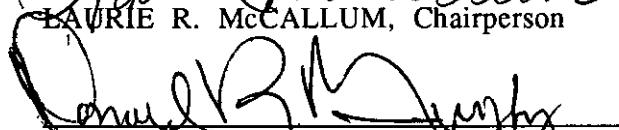
Therefore, the Commission further orders the complainant to notify the Commission by 2:00 p.m., Friday, September 17, 1993, as to whether she will proceed to hearing as scheduled or whether she will not appear at hearing. If complainant's decision is not to proceed to hearing, the Commission will consider that she has withdrawn her appeal and will dismiss her case. Due to the time constraints involved, the contents of this Interim Decision and Order will be communicated by telephone to the parties as soon as possible after the Commission reaches a formal decision.

INTERIM ORDER

That complainant's motion for hearing postponement is denied, and complainant must notify the Commission by 2:00 p.m. on Friday, September 17, 1993, whether she intends to proceed to hearing as scheduled.

Dated: September 15, 1993 STATE PERSONNEL COMMISSION
JMR


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner