

STATE OF WISCONSIN

PERSONNEL COMMISSION

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AHMED E. HASSAN,
 Complainant,
 v.
 Chancellor, UNIVERSITY OF
 WISCONSIN-MADISON,
 Respondent.
 Case No. 93-0189-PC-ER
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DECISION
 AND
 ORDER

This complainant was filed on November 1, 1993, alleging discrimination based on creed (Muslim) and national origin. The complaint indicated that the complainant had been a graduate student at the University of Wisconsin since 1992. Complainant contends that he was discriminated against when he "took the Mechanical Engineering Department Phd qualifying exam twice and... was deliberately failed by the department each time for unknown reasons." The respondent filed a motion to dismiss, contending that the complainant's allegations are outside of the Commission's jurisdiction.


The Commission's authority under the Fair Employment Act is limited under §111.375(2), Stats., to processing complaints against each agency of the state "acting as an employer." Respondent filed an affidavit to the effect that the complainant had never been employed by respondent. Because the complainant's allegations do not relate to the respondent's role as an employer, the Personnel Commission lacks subject matter jurisdiction and the complaint must be dismissed.

The Commission notes that §36.12(1), Stats., prohibits discrimination against a University of Wisconsin student "because of the student's race, color, creed, religion, sex, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status or parental status." If he has not already done so, the complainant may wish to contact the respondent University to obtain information about the procedure for filing a complaint under §36.12, Stats. According to §36.12(2)(a)4., Stats., such a complaint must be filed "with the institution or center within 300 days of the alleged violation." The Personnel Commission has no authority under §36.12.


ORDER

This matter is dismissed for lack of subject matter jurisdiction.

Dated: March 29, 1994 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

KMS:kms
K:D:temp 4/94 Hassan


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

Ahmed Hassan
15 Hassan Fakhry St., Apt. #13
Elzahra, Masr Elkadima
Cairo, Egypt

David Ward
Chancellor, UW-Madison
158 Bascom Hall
500 Lincoln Drive
Madison, WI 53706

NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be

served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)