

The word "notice" does not necessarily imply notice given in writing. When not otherwise required, a verbal or oral notice may be sufficient, and as effective as a written notice, provided it conveys the necessary information.

Whenever notice is required or authorized by statute, the question whether it must be in writing is one of intention, which intention depends on the language employed, the context, and the subject to which the term is applied.

Board of Education of Wurtland Independent School District v. Stevens, 88 S.W. 2d 3, 6, 261 Ky. 475 (1935), includes the following discussion:

Certain notices are required by our statute to be in writing, while no such requirement is expressly provided in respect to certain other notices, and had it been the intention of the Legislature, that all notices should be in writing, evidently it would have said so, instead of leaving it to speculation and conjecture of the courts to guess whether or not the Legislature intended a notice to be in writing when it is silent on the question.

The Commission held that effective notice under §230.44(3), Stats., does not have to be in writing unless the civil service code specifically requires written notice for the particular transaction in question -- e.g., a notice regarding position abandonment must be in writing pursuant to §230.34(1)(am), Stats.

Since there is nothing in the civil service code that requires written notice of nonselection, the verbal notice appellant received on June 20, 1994, constitutes effective notice under §230.44(3), Stats., and therefore this appeal was not timely filed and must be dismissed.

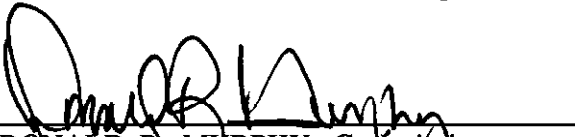
ORDER


This appeal is dismissed as untimely filed.

Dated: December 22, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

AJT:rcr


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

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**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.)