

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MARILYN R. MEIER-O'BRIEN, Appellant,

v.

Secretary, WISCONSIN DEPARTMENT OF ADMINISTRATION, Respondent.

Case 6
No. 69045
PA(der)-168

Decision No. 32955-A

Appearances:

Marilyn R. Meier-O'Brien, appearing on her own behalf.

Elisabeth Dieterich, Assistant Legal Counsel, Department of Administration, P. O. Box 7864, Madison, Wisconsin 53707-7864, appearing on behalf of the Department of Administration.

ORDER DENYING APPELLANT'S PETITION FOR REHEARING

This matter was the subject of a Final Order issued on January 28, 2010 that granted Respondent's motion to dismiss the appeal for lack of subject matter jurisdiction and because it was untimely filed. Appellant filed a Petition for Rehearing on February 16, 2010, Respondent mailed a response dated February 19, 2010, and Appellant submitted additional arguments that were received on February 22, 2010. The Commission has reviewed the parties' submissions and concludes the Appellant has failed to show that the Commission's Order was premised on an error of law or fact or that the Appellant has discovered new evidence of the nature described in Sec. 227.49(3), Stats. Therefore, this petition must be denied.

In our Final Order, we concluded that: 1) the Appellant's 2009 effort to obtain review of personnel actions ending with her discharge in 1990 or earlier was not timely; and 2) the Appellant's 2009 claim of "gender discrimination, sexual harassment from [her] first line supervisor and retaliation for reporting this abuse" arising from the same personnel actions was outside of the Commission's statutory authority to review. The Final Order was issued after we had carefully reviewed numerous submissions from Ms. Meier-O'Brien, including a 74-page narrative. We have now also carefully reviewed all of the material submitted by Ms. Meier-O'Brien in support of her Petition for Rehearing. Nevertheless, the relevant time limit is 30 days rather than 20 years, and the Commission lacks the authority under the Wisconsin Fair Employment Act to review complaints of discrimination and retaliation.

No. 32955-A

Based upon the above conclusions, the Commission makes and issues the following

ORDER¹

Respondent's Petition for Rehearing is denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 26th day of February, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

¹ Upon issuance of this Order, the accompanying letter of transmittal will contain the names and addresses of the parties to this proceeding and notices to the parties concerning their rehearing and judicial review rights. The contents of that letter are hereby incorporated by reference as a part of this Order.