

BEFORE THE IMPARTIAL HEARING OFFICER

In the Matter of the Grievance of

DEBRA CHESEBRO

Under the Grievance Procedure of the
WESTERN TECHNICAL COLLEGE

Case ID: 423.0005

Case Type: IHO

DECISION NO. 36334

Appearances:

Debra Chesebro, 1126 - 25th Street South, La Crosse, Wisconsin, filed a grievance on her own behalf but failed to be present at the prehearing conference.

Kirk Strang, Strang, Patteson, Renning, Lewis & Lacy, 660 West Washington Avenue, Suite 303, Madison, Wisconsin, appearing on behalf of Western Technical College.

DECISION OF THE IMPARTIAL HEARING OFFICER

Debra Chesebro filed an appeal of a written warning from Western Technical College (“WTC”) and requested that the warning be removed from her file. Commissioner James J. Daley was selected as the Impartial Hearing Officer (IHO) for the grievance. IHO Daley requested that all parties be available for a prehearing conference scheduled for Tuesday, March 29, 2016, at 10:00 a.m., and further requested that WTC set up the conference call for said purpose. On March 24, 2016, John Heath, Director of Human Resources for WTC, sent an email to all parties stating:

Hello All,

We have set up a WisLine to use for the conference call on Tuesday, March 29th at 10:00 AM. ...

Please let me know if you have any questions.

Heath proceeded to include the necessary phone number and passcode information. Heath’s email was sent to all parties, including Chesebro. All parties responded stating they were available.

On March 29, 2016, IHO Daley joined the conference call at 10:01 a.m. In attendance was Heath, Wade Hackbarth of WTC, and Kirk Strang, counsel for WTC. The parties present waited for fifteen minutes, at which point IHO Daley noted that Chesebro had submitted an email acknowledging the prehearing conference and declared her availability to attend. Discussion ensued for seven minutes regarding Chesebro's potential whereabouts, with Strang stating that there may have been some confusion on the part of Chesebro as to the date and/or time of the prehearing conference. At 10:22 a.m., IHO Daley verbally asked if Chesebro was on the line one final time and, lacking a response, the prehearing conference was terminated.

At 11:26 a.m., Chesebro contacted IHO Daley via email indicating that she was "never called into the conference." IHO Daley sent an email to all parties at 11:43 a.m. advising Chesebro to submit good cause for her absence. At 3:30 p.m., Chesebro responded to all parties, indicating that she understood the email as being intended solely for IHO Daley and that she expected to be called into Heath's office to participate in the call. Chesebro stated her office is located next to Heath's; however, she did not feel comfortable interrupting.

While it is somewhat disheartening that WTC did not proactively seek Chesebro during the time the parties were waiting for her arrival, it was not their responsibility to do so. Heath clearly advised, well ahead of time, the start time and procedure for the parties to be involved in the conference. Heath clearly defined that his message was intended for all parties and clearly stated that he was available for clarification if any party needed such. The confusion of Chesebro, if it truly existed, could have been rectified by simply asking for clarification. Additionally, while Chesebro relies to some extent, by inference, on the proximity of her office to Heath's for WTC to have proactively engaged her in the meeting, the same can be said of the ease to which Chesebro had access to WTC for any clarification that was necessary. Finally, while the standard of good cause for the non-attendance of a party due to confusion may have greater sympathetic appeal in the case of a pro se grievant, this is somewhat mitigated by her professional standing as a human resources professional. Chesebro has a greater background and access for clarification purposes than the average pro se grievant and ultimately failed in her diligence to be present at the prehearing conference, costing WTC and the State resources unnecessarily in the process.

ORDER

Debra Chesebro's grievance regarding her written warning is hereby dismissed.

Signed in the City of Madison, Wisconsin, this 20th day of April 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Impartial Hearing Officer