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 SAM AMACHER, *
 *
 Appellant, *
 *
 v. *
 *
 DEPUTY DIRECTOR, Bureau of Personnel, *
 *
 Respondent. *
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 Case No. 77-193 *
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 * * * * *

OFFICIAL

INTERIM
OPINION AND
ORDER

Before: James R. Morgan, Calvin Hessert and Dana Warren, Board Members.

NATURE OF THE CASE

This is an appeal of a denial of a reclassification request pursuant to § 16.05(1)(f), stats. The respondent moved to dismiss on the grounds that the appeal was not timely filed, and the parties have filed affidavits on this subject.

OPINION

At the prehearing conference it was stipulated that:

1. The letter advising appellant of the decision of the Deputy Director of the Bureau of Personnel was dated September 13, 1977.
2. The letter appealing the above decision to the Personnel Board was dated October 1, 1977.
3. The October 1, 1977, letter was received by the Personnel Board on Monday, October 3, 1977.

By affidavit the respondent has stated that the September 13, 1977, letter was mailed on September 13, 1977. The appellant in his affidavit states that he did not receive that letter until September 16, 1977.

Assuming that the Director's letter was received by appellant on September 16, 1977 the 15 day appeal time set forth in § 16.05(2), stats., would expire on October 1, 1977. However, since this was a Saturday the date would have been extended to the next

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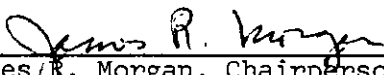
business day, or October 3, 1977, by operation of law. See § 990.001(4)(b), stats. Therefore, the appeal would have been timely filed. In the absence of direct evidence to that effect, we are not prepared to indulge a presumption that the September 13, 1977, letter was received prior to September 16, 1977.

ORDER

The motion to dismiss on the ground that this appeal was not timely filed is denied.

Dated: 2-20, 1978

STATE PERSONNEL BOARD



James R. Morgan, Chairperson