

# OFFICIAL

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*  
\*  
STEVEN SASSO, \*  
\*  
Appellant, \*  
\*  
v. \*  
\*  
Chancellor, UNIVERSITY OF \*  
WISCONSIN-WHITEWATER, \*  
\*  
Respondent. \*  
\*  
Case No. 79-285-PC \*  
\*  
\* \* \* \* \*

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal of the effective date of action taken by respondent with respect to appellant's position. A hearing was scheduled for June 2, 1980, in Room 803, 131 W. Wilson St., Madison. Respondent appeared by counsel, with witnesses and exhibits, prepared to participate in a hearing of both the jurisdictional objection and agreed-upon statement of issue on the merits, as set forth in the Conference Report dated February 5, 1980. Appellant did not appear personally, but his representative, Mr. Gary Hausen, Field Representative, AFSCME-Council 24 of the Wisconsin State Employees Union (WSEU), was present. At the hearing Ms. Patricia Hodulik, counsel for the respondent, moved to dismiss the appeal for failure to prosecute. The hearing examiner reserved ruling on the motion, and the hearing proceeded with respect to the jurisdictional objection alone. The parties submitted post-hearing briefs on respondent's motion to dismiss. In respondent's brief, Ms. Hodulik raised for the first time the objection that the appeal was not timely. Mr. Hausen did not ask for a postponement prior to the hearing date.

OPINION

Statements of Mr. Hausen during the hearing, as well as in his post-hearing brief, show that he did make several unsuccessful attempts to contact Mr. Sasso prior to the hearing. Mr. Hausen did not know until the day of the hearing that one witness was unable to attend for medical reasons.

Mr. Hausen was not in his office the latter part of the week before the Monday, June 2, 1980, hearing date. He argues that he did not take the case file with him during his absence because he did not anticipate the problems which came up after he left Madison. He also argues "geographical logistics" contributed to the confusion in this case, since Mr. Sasso had moved to Madison from Whitewater but his local union representative, Mr. Kienbaum, remained in Whitewater. The failure to anticipate problems, and the "geographical confusion" do not excuse the failure to come to the hearing prepared to proceed with all issues. Mr. Hausen had four months to prepare for hearing. As of the beginning of the week prior to hearing, he had not been prepared and did not take steps necessary to become prepared.

Ms. Sasso apparently contacted respondent through UW office staff and informed someone that he would be on vacation on June 2nd and would not be available for the hearing. Mr. Sasso did not contact his own representative; nor apparently did he leave a message for his representative, that he would be unavailable. The appellant had, however, participated in the prehearing conference call in this case, on February 5, 1980, along with Mr. Kienbaum and Mr. Hausen. The hearing date was agreed to at that time and notice was given to Mr. Sasso personally by mailing of a copy of the Conference Report to him, in care of Mr. Kienbaum, at the address of WSEU Local 1131 in Whitewater.

Mr. Hausen was sent a copy of the Conference Report at the Madison office of AFSCME-Council 24.

Based upon all of the above facts, the Commission finds that Mr. Sasso has shown a lack of concern with following through on his own appeal, which, compounded by the insufficient efforts of his representative to prepare for the hearing in a timely way, justifies a dismissal for failure to prosecute this appeal.

CONCLUSIONS OF LAW

1. Appellant has failed to show good cause for his unpreparedness to proceed with the hearing at the time and place agreed to by the parties.

ORDER

Respondent's motion to dismiss based on appellant's failure to prosecute his appeal is hereby granted and this appeal is hereby dismissed.

Dated June 27 1980

STATE PERSONNEL COMMISSION

Charlotte M. Higbee  
Charlotte M. Higbee  
Commissioner

Gordon H. Brehm  
Gordon H. Brehm  
Commissioner

AR:mgd

Note: Commissioner Murphy abstained because of employment with the University at the time this case came before the Commission.