

3. The obvious lack of comparison [regarding] personal and even medical requests for a shift change. Change was given to white employes with considerably less seniority and experience.
4. Also the fact that none of my witnesses were notified [even though] they work at Ethan Allen School.

Pursuant to §227.12, Wis. Stats:

Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities.

* * *

- (3) Rehearing will be granted only on the basis of:
 - (a) Some material error of law.
 - (b) Some material error of fact.
 - (c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

The record indicates that the appellant's petition for rehearing was not filed within the requisite 20 day period. Service of a decision is complete upon the date of mailing regardless of receipt by the addressee. In re Proposed Incorporation of Pewaukee, 72 Wis. 2d 593, (1976). The Commission's decision was mailed on January 21, 1983. Twenty days thereafter was February 10, 1983. The term "filing" was defined in Mosing v. Hagen, 33 Wis. 2d 636, 643 (1967):

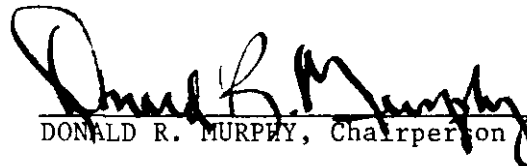
[T]he filing of a document is now generally understood to consist in placing it in the proper official custody by the party charged with the duty of filing it, and the receiving of it by the officer, to be kept on file.

In the instant case, the petition was filed with the Commission on February 18, 1983, and therefore must be considered to be untimely. As a result, the petition for rehearing must be dismissed.

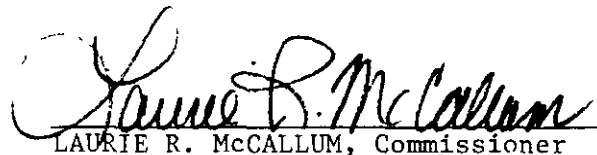
Even if the appellant's petition had been timely filed, he has failed to point out a material error of fact or law, or the discovery of new

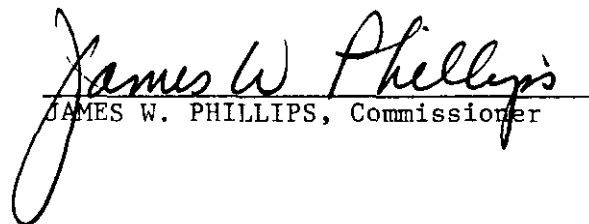
evidence as it relates to the Commission's decision to dismiss the appeal due to lack of prosecution. The first three, if not all four, of the points raised in the appellant's most recent letter constitute allegations of discrimination relating to the merits of the discrimination complaint. The final argument was adequately addressed in the Commission's January 20th Decision and Order.

Dated: March 19, 1983 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

KMS:jmf


LAURIE R. McCALLUM, Commissioner


JAMES W. PHILLIPS, Commissioner

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