

The statutes, principally sec. 111.36, Stats., set forth a number of specific powers designed to aid the Department in its investigation of such complaints. These statutory provisions clearly place the primary responsibility for securing the elimination of discrimination upon the Department. The primary effect of the original complaint is to set in motion the machinery for an inquiry by the Department.

At the preliminary stages, it is the Department that has the responsibility to endeavor to eliminate the practice by conference, conciliation or persuasion. Where such attempts to eliminate the discrimination fail, the Department prepares the notice of hearing which sets forth the allegations of discrimination which the respondent must answer. The Department is empowered to make written findings and order appropriate remedies where it finds after hearing that the respondent has engaged in discrimination. Sec. 111.36, Stats. Thereafter, any person aggrieved by non-compliance with the Department's order may have it enforced specifically by suit in equity. The Department can also seek enforcement of its orders as provided in ch. 101, Stats. Sec. 111.36(3)(c), Stats.

These statutory provisions imply that the Department may proceed against the employer even where parties to the complaint filed with the Department have withdrawn.

In fact the power to proceed may be essential to effectuate the purposes of the Act where the original complaint alleges a pattern of practice that constitutes unlawful discrimination, either historical or ongoing, against more than one person. 66 OAG 28

Since that opinion was issued, the Personnel Commission has been granted the authority previously held by the Department of Industry, Labor and Human Relations (DILHR) with respect to processing complaints of discrimination filed against an agency of the State of Wisconsin. §111.375(2), Stats. As to those complaints, the Personnel Commission now holds comparable authority to that held by DILHR in 1977. Therefore, the Commission concludes that in order for it to properly exercise its discretion in determining what will eliminate the discrimination that was alleged in the complaint, it may review a settlement agreement entered into by the parties. A review of the stipulation also allows the Commission to determine whether the parties may have entered into an agreement that contravenes public policy as expressed in the Fair Employment Act. Finally, §PC 1.12, Wis. Adm. Code, specifically provides that

"[t]he commission may require the filing of a settlement agreement prior to dismissing a case."

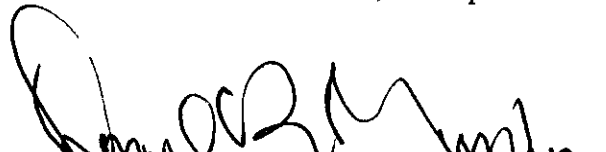
ORDER

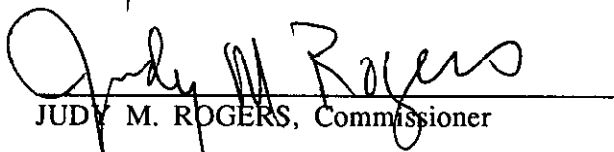
The complainant is ordered to provide the Commission, no more than 10 days from the date this order is signed, with a copy of the settlement agreement entered into by the parties.

Dated: September 30, 1993 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

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DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner