

JILL TEWS,

Petitioner,

v.

Chairperson, PUBLIC SERVICE
COMMISSION

Respondent.

Case No. 89-0150-PC, 89-0141-PC-ER

INTERIM
DECISION
AND
ORDER

These matters were filed with the Commission as a result of the decision of the respondent to discharge the petitioner effective December 31, 1989. Petitioner filed a letter of appeal with the Commission on November 22, 1989. The Commission convened a prehearing conference on December 5th, at which time the parties agreed to a hearing on December 20th and 21st. The parties also agreed to two issues for hearing, one issue related to the discharge appeal and the other, contingent upon the filing of a complaint of discrimination, related to a claim of handicap discrimination. The second issue was based, in part, upon the agreement of the parties to waive the investigation of any complaint of discrimination that would be filed by the petitioner. During the prehearing conference, the petitioner also requested the Commission direct that the decision of the hearing examiner be the final decision of the Commission. Respondent did not agree with this request, and, the parties having been provided an opportunity to file written arguments, this dispute is now before the Commission¹.

Pursuant to §227.46(3), Stats.:

(3) With respect to contested cases, an agency may by rule or in a particular case may by order:

(a) Direct that the hearing examiner's decision be the final decision of the agency;

¹On December 11, 1989, the petitioner filed a complaint of handicap discrimination with the Commission. That complaint was assigned case no. 89-0141-PC-ER.

Petitioner supports her request by pointing out that "[a]fter her December 31, 1989 termination, [petitioner] will be left without a job and income in which to pay her rent, food, transportation costs, automobile loan payments, monthly debts and obligations, and basic personal necessities." Respondent argues that §230.43(4), Stats., provides adequate protection for the petitioner's financial interests in the event her discharge would be overturned and that, absent a compelling reason, the entire Personnel Commission should participate in the deciding the matter.

The Commission has reviewed the arguments of the parties and concludes that the circumstances of this case do not justify the granting of petitioner's request. The case has already been treated on an expedited basis by the Commission and the parties have agreed to hearing dates prior to the effective date of the discharge decision. The respondent is correct in noting that the petitioner would be entitled to back pay in the event she is successful with either claim. This is not a situation where no effective relief will be available to the petitioner if the normal proposed decision format is followed. Even if the Commission were to grant the petitioner's request, it could not guarantee that a final decision would be served on the parties by December 31st.

While the Commission is denying the petitioner's request, the parties should note that they are free to minimize any delays associated with the remainder of these proceedings by agreeing to forego post-hearing briefs or by reducing the period otherwise available for responding to the proposed decision. These options will be more fully explained by the hearing examiner.

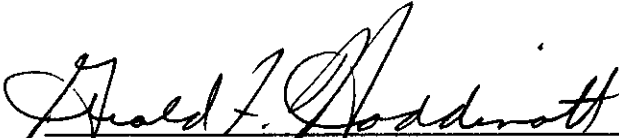
ORDER

Petitioner's request for the Commission to direct that the decision of the hearing examiner be the final decision of the Commission is denied.

Dated: December 14, 1989 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

KMS:kms


GERALD F. HODDINOTT, Commissioner

Donald R. Murphy did not take part in the consideration or decision of this matter.