

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CAROL E. ALLEN, Appellant,

vs.

Secretary, DEPARTMENT OF EMPLOYMENT RELATIONS, Respondent.

Case 558
No. 62777
PA(der)-20

(formerly 03-0029-PC)

Decision No. 30772-A

Appearances:

Carol E. Allen, College of Arts and Sciences, UW-Eau Claire, Eau Claire, WI 54702-4004, appearing on her own behalf.

David J. Vergeront, PO Box 7855, Madison, WI 53707-7855, appearing for the Office of State Employment Relations (formerly the Department of Employment Relations).

ORDER DENYING PETITION FOR REHEARING

The Commission issued a ruling on January 29, 2004, dismissing this matter for lack of subject matter jurisdiction. By letter dated February 16, 2004, and received by the Commission on February 20th, the Appellant has petitioned for rehearing.

A petition for rehearing must be filed “within 20 days after service of the order.” §227.49(1), Stats. Service of a decision is complete on the date of its mailing regardless of its receipt by the addressee. *IN RE PROPOSED INCORPORATION OF PEWAUKEE*, 72 Wis. 2d 593, 241 N.W.2d 603 (1976). The cover letter to the January 29th ruling explicitly informed the Appellant how to calculate this time limit:

For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission. . . .
(Emphasis in original.)

No. 30772-A

The January 29th ruling was placed in the mail on January 29, 2004. The last day the Appellant could file a timely petition for rehearing was February 18, 2004. The Commission did not receive the petition until February 20th, so it was untimely.

The Commission notes that Appellant's petition appears to be based on a misunderstanding of the materials that were reviewed in this matter. The Commission issued the January 29th ruling after reviewing all of the Appellant's appeal materials filed on June 30, 2003, as well as the letter to the Appellant from the Personnel Commission dated July 10, 2003. No information had been submitted by counsel for Respondent by the time the January 29th ruling was issued.

Therefore, the Commission makes and issues the following:

ORDER

Appellant's petition for rehearing is denied as untimely.

Given under our hands and seal at the City of Madison, Wisconsin, this 22nd day of March, 2004.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

Parties:

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