

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ALLEN BEDYNEK-STUMM, Appellant,

vs.

Secretary, DEPARTMENT OF WORKFORCE DEVELOPMENT, Respondent.

Case 1
No: 62942
PA(sel) - 7

Decision No. 31332

ORDER TO SHOW CAUSE

A review of the file in this matter reveals the following:

1. Appellant filed an appeal in this matter with the State of Wisconsin Personnel Commission on June 14, 2001 together with a companion claim of discrimination. The parties agreed that the appeal should be held in abeyance pending an initial determination in the discrimination matter.

2. After a no probable cause/probable cause determination had been issued in the discrimination matter, a prehearing conference was held on January 27, 2003 during which the parties were unable to stipulate to the issues to be decided in a combined hearing. The Personnel Commission issued an Order on March 5, 2003 establishing the issues to be decided in the two pending matters.

3. The Personnel Commission was abolished effective July 26, 2003 without having heard either matter, and the discrimination claim was forwarded to the Equal Rights Division of the Department of Workforce Development (ERD) and the appeal was forwarded to the Wisconsin Employment Relations Commission (WERC).

4. WERC Commissioner Susan J.M. Bauman was designated as the Hearing Examiner in the appeal on January 21, 2004 and conducted a prehearing conference with the parties on January 15, 2004 at which the parties, again, agreed to holding the appeal in abeyance until such time as the ERD had concluded its proceedings.

5. The ERD hearing examiner issued a decision finding no discrimination on October 8, 2004 and no timely appeal was filed by Appellant.

6. Another prehearing conference was held by Hearing Examiner Bauman on January 4, 2005 at which time a hearing was scheduled for May 26, 2005 and an additional prehearing

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conference was scheduled for April 7, 2005 with the understanding that Appellant would telephone the Hearing Examiner at 10:00 a.m. that day inasmuch as Appellant does not have a telephone and cannot be contacted except by the United States mail.

7. Appellant failed to call the Examiner on April 7, 2005, so the Examiner sent a letter to the parties on April 8, 2005 directing Appellant to clearly identify the nature of the illegal actions and abuses of discretion he contends were committed by the Respondent in its failure to hire him for an Employment Security Assistant 3 – Claims Specialist position in June 2001 by no later than April 18, 2005.

8. On April 18, 2005, Appellant left a voice mail message for the Examiner in which he advised, among other things, that he had misplaced his file relative to the instant appeal and that he was requesting a 60-day postponement of the May 26, 2005 hearing in this matter that had been scheduled during the January prehearing conference.

9. By letter dated April 22, 2005, the Examiner wrote to the parties asking whether Respondent objected to the requested postponement. As a result of Respondent's response, the Examiner advised the parties by letter dated May 4, 2005 that an additional prehearing conference was scheduled for Thursday, May 12, 2005 at 10:00 a.m. for the purpose of establishing a date by which Appellant would provide the specifics of his claim as well as to establish a new date for hearing and that the prehearing conference would be initiated by Appellant telephoning the Hearing Examiner inasmuch as he does not have a telephone and the Examiner cannot contact him in any manner other than by letter sent by United States mail.

10. The Appellant once again failed to contact the Hearing Examiner as directed by the May 4, 2005 correspondence, resulting in the issuance of this Order inasmuch as the Hearing Examiner is unable to contact the Appellant in any manner other than by United States mail.

Therefore, Appellant is ORDERED to show cause by no later than May 26, 2005, as to why this matter should not be dismissed for lack of prosecution. Appellant is advised that the Commission will make the determination if the appeal will be allowed to proceed and that he has the burden to demonstrate good cause as to why the matter should not be dismissed.

Dated at Madison, Wisconsin, this 16th day of May, 2005.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Susan J.M. Bauman /s/

Susan J.M. Bauman
Hearing Examiner

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