

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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SUSAN L. ROSE-ADAMETZ, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION, Respondent.

Case ID: 291.0006

Case Type: PA

DECISION NO. 37940

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**Appearances:**

Susan L. Rose-Adametz, 303 School Street, Cobb, Wisconsin, appearing on her own behalf.

Benjamin R. Jones, Chief Legal Counsel, Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Public Instruction.

**DECISION AND ORDER DENYING MOTION FOR SUMMARY JUDGMENT**

On January 4, 2019, Susan L. Rose-Adametz filed an appeal with the Wisconsin Employment Relations Commission asserting the State of Wisconsin Department of Public Instruction (DPI) acted illegally or abused its discretion when it did not select her for the position of Customer Services Management Chief. The matter was noticed for a February 28, 2019 hearing but postponed while Rose-Adametz sought to retain legal counsel. On April 12, 2019, DPI filed a motion for summary judgment. Rose-Adametz did not respond to the motion, and the matter became ripe for Commission consideration on May 2, 2019.

Having considered the matter, the Commission concludes the motion for summary judgment should be denied.

NOW, THEREFORE, it is

**ORDERED**

The motion for summary judgment is denied.

Dated at Madison, Wisconsin, this 23rd day of May, 2019.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

**MEMORANDUM ACCOMPANYING DECISION AND ORDER**  
**DENYING MOTION FOR SUMMARY JUDGMENT**

The Commission uses the following standard in reviewing motions for summary judgment:

On summary judgment the moving party has the burden to establish the absence of a genuine, that is, disputed issue as to any material fact. On summary judgment the court does not decide the issue of fact; it decides whether there is a genuine issue of fact. A summary judgment should not be granted unless the moving party demonstrates a right to a judgment with such clarity as to leave no room for controversy; some courts have said that summary judgment must be denied unless the moving party demonstrates his entitlement to it beyond a reasonable doubt. Doubts as to the existence of a genuine issue of material fact should be resolved against the party moving for summary judgment. The papers filed by the moving party are carefully scrutinized. The inferences to be drawn from the underlying facts contained in the moving party's material should be viewed in the light most favorable to the party opposing the motion. If the movant's papers before the court fail to establish clearly that there is no genuine issue as to any material fact, the motion will be denied. If the material presented on the motion is subject to conflicting interpretations or reasonable people might differ as to its significance, it would be improper to grant summary judgment.

*R v. DOC, Dec No. 37495 (WERC, 10/18); Grams v. Boss, 97 Wis.2d 332, 338-339, 294 N.W.2d 473 (1980).*

In this matter, there are disputes as to material fact. Rose-Adametz asserts a member of the interview panel was biased against her. From this assertion, it could be inferred that any such bias impacted the recommendations of the entire interview panel. She also asserts she was not asked the same interview questions as other applicants. If true, such a fact is clearly material. Therefore, the motion for summary judgment is denied.<sup>1</sup>

Dated at Madison, Wisconsin, this 23rd day of May, 2019.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

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James J. Daley, Chairman

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<sup>1</sup> Denial of the motion does not alter the burden of proof that Rose-Adametz ultimately bears to prove the material facts she alleges. *Rakowski v. DWD*, Dec No. 36969 (WERC, 9/17). It also does not alter the reality that, absent proof of illegality or abuse of discretion, the Commission does not second guess the hiring authority's judgment as to which applicant is the best candidate to fill a position. *Hanko v. DHS*, Dec. No. 37771 (WERC, 12/18).