

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

Norman Caulfield and Thomas O. Guss)
)
Petitioners,)
)
v.)
)
Fort Hays State University,)
)
Respondent.)
_____)

Case No: 75-CAE-I-2002

Norman Caulfield and Thomas O. Guss)
)
Petitioners,)
)
v.)
)
Fort Hays State University,)
)
Respondent.)
_____)

Case No: 75-CAE-2-2002

FINAL ORDER
(K.S.A. 77-526 and 77-527)

NOW on this 17th day of September 2003, the petitioners' appeal of the presiding officer's August 25, 2003, Initial Order that dismisses the above captioned cases came before the Public Employee Relations Board.

The Public Employee Relations Board declares the petitioners' request for review, or appeal is untimely. On Monday, September 15, 2003, the board received petitioners' written request for review. The order became final at 5:00 PM on Friday, September 12, 2003.

75-CAE-1-2002
75-CAE-2-2002

The Kansas Administrative Procedures Act (K.S.A. 77-501 *et seq.*), or KAPA, sets forth the procedures by which these cases were heard and ruled upon. See K.S.A. 77-527 and 77-531.

Pursuant to K.S.A. 77-527, petitioners' written appeal had to be received by the board within fifteen (15) days after the service of the order. (An additional three (3) days are added to the fifteen (15) day period, for a total of eighteen (18) days, to take into account possible delays during the mailing of the written appeal. K.S.A. 77-531.)

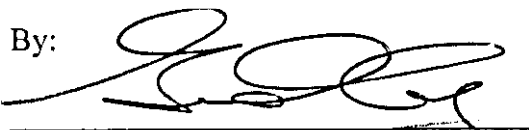
Under 77-531, the period during which the petitioners were required to file an appeal began to run on the day service of the order was complete, that is, when it was placed in the mail on Monday, August 25, 2003. Consequently, for the petitioners' appeal to be timely it had to be received by the board no later than 5:00 PM on Friday, September 12, 2003, or eighteen (18) days from Monday, August 25, 2003.

Because the initial order became final by operation of law, KAPA does not require the board to discuss the merits of petitioners' argument. However, the board did review the order and agreed that the initial order is supported by substantial competent evidence, and is a correct interpretation and application of the law.

Journalized this 5th day of November, 2003.

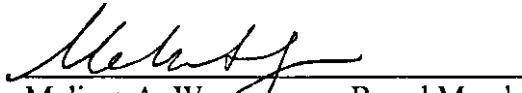
PUBLIC EMPLOYEE RELATIONS BOARD

By:



Greg Windholz, Chairperson, PERB


Sally O'Grady, Board Member


Melissa A. Wangemann, Board Member

Notice of Right to Seek Judicial Review

The foregoing journal entry is a final order of the Public Employee Relations Board pursuant to K.S.A. 77-527. This order is subject to review by the district court in accordance with the Act for Judicial Review and Civil Enforcement of State Agency Actions (K.S.A. 77-601 et seq.)

Unless a motion for reconsideration is filed pursuant to K.S.A. 77-529, a petition for judicial review must be filed with the appropriate district court within 30 days after the final order has been served upon the parties. Since this Final Order is being served upon the parties by mail, the parties are allowed a total of 33 days from the date on the certificate of mailing below to file their petition for judicial review in the appropriate district court. See K.S.A. 77-613(b) and (e).

Pursuant to K.S.A. 77-527(j), K.S.A. 77-613(e), and K.S.A. 77-615(a), any party seeking judicial review must serve a copy of its petition for judicial review upon the Public Employee Relations Board by serving its designated agent at the following address:

Public Employee Relations Board
c/o AJ. Kotich, Chief Counsel
KDHR - Legal Services
401 Topeka Blvd.
Topeka, KS 66603-3182

CERTIFICATE OF MAILING

I, Sharon L. Tunstall, Office Manager of the Public Employee Relations Board, do hereby certify that on this 5th day of November, 2003, true and correct copies of the above and foregoing Final Order were served upon the parties by depositing the copies in the U.S. Mail, First Class, addressed to:

FINAL ORDER

75-CAE-112-2002 (Caulfield & Guss v. Fort Hays State University)

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