

**EQUAL OPPORTUNITIES COMMISSION
CITY OF MADISON
210 MARTIN LUTHER KING, JR. BOULEVARD
MADISON, WISCONSIN**

<p>Dan Hieb C/O OPCC 1616 7th Street Santa Monica, CA 90401</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Woodmans 3817 Milwaukee Street Madison, Madison 53704</p> <p style="text-align: center;">Respondent</p>	<p style="text-align: center;">RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</p> <p style="text-align: center;">Case No. 21148</p>
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BACKGROUND

On May 10, 1989, Dan Hieb filed a complaint of discrimination against the above named Respondent alleging that it discriminated against him on the basis of sex and physical appearance with respect to employment. Mr. Hieb later amended his complaint on June 11, 1989 and July 10, 1989 to add the protected groups of religion and political beliefs. A hearing was held on the matter on September 25, 1991. The Complainant did not appear in person or by counsel. The Respondent appeared by Phil Woodman and by counsel Paul A. Hahn of Boardman, Suhr, Curry and Field, S.C. Based upon the record in this matter and the evidence presented, the Hearing Examiner now makes the following Recommended Findings of Fact, Conclusions of Law and Order:

RECOMMENDED FINDINGS OF FACT

1. This matter was certified to hearing originally on August 8, 1989. As a result of the Complainant's amendments to his original complaint, this matter was remanded for further investigation.
2. This matter was certified to hearing a second time on September 28, 1990.
3. Hearing on this matter was set for April 4, 1991. A Notice of Hearing and Scheduling Order were sent to the Complainant on December 17, 1990.
4. The April 4, 1991 hearing was postponed at Complainant's request so that he might be able to return to Madison for the hearing during favorable weather conditions.
5. Hearing of this matter was scheduled a second time to commence on September 4, 1991. A Notice of Hearing was sent to the Complainant on June 20, 1991. This notice was received by the Complainant on June 28, 1991.
6. This hearing was postponed on the request of the Complainant because of the theft of his personal papers and the funds with which he intended to come to Madison for the hearing.

7. This matter was rescheduled for hearing to commence at 8:30 a.m. on September 25, 1991. The Complainant was orally notified of this new date during the week of August 26, 1991. A Notice of Hearing was sent to the Complainant on September 6, 1991 and the Complainant received this notice September 9, 1991.
8. On September 24, 1991 at approximately 2:00 p.m., the Complainant contacted the Commission Offices to indicate that his airplane would not reach Chicago's O'Hare airfield until approximately 6:45 a.m. on September 25, 1991. He felt that it would not be possible for him to reach Madison in time for the scheduled start of the hearing. The Hearing Examiner indicated that the start of the hearing would be postponed until 10:00 a.m. This was confirmed with counsel for the Respondent.
9. At 9:25 a.m. on September 25, 1991, the Complainant once again contacted the Commission offices by telephone to indicate that he had not left California and was requesting postponement of the hearing. As grounds for his request, the Complainant stated that he had filed an amendment to the complaint that had not yet been acted upon by the Commission.
10. Review of the file reveals no amendment to have been filed by the Complainant since July 10, 1989. The Initial Determination relating to this amendment was issued on September 13, 1990.
11. Neither the Complainant nor a representative appeared at the time of hearing or prior to 10:00 a.m. on September 25, 1991.

RECOMMENDED CONCLUSIONS OF LAW

1. Pursuant to Madison Equal Opportunities Commission Rule 9.4, the Complainant has defaulted and the case should be dismissed.

RECOMMENDED ORDER

1. Complainant's complaint in the above captioned matter is dismissed.

Signed and dated this 1st day of October, 1991.

EQUAL OPPORTUNITIES COMMISSION

Clifford E. Blackwell III
Hearing Examiner