

State of Wisconsin



Labor and Industry Review Commission

William Tadisch, Complainant

Fair Employment Decision¹

PMI Entertainment Group
d/b/a Brown County Memorial
Complex,
Respondent

Dated and Mailed:

ERD Case No. CR201903168

November 11, 2021
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The decision of the administrative law judge is **affirmed**. Accordingly, the complainant's complaint is dismissed.

By the Commission:

/s/

Michael H. Gillick, Chairperson

/s/

Georgia E. Maxwell, Commissioner

/s/

Marilyn Townsend, Commissioner

¹ **Appeal Rights:** See the green enclosure for the time limit and procedures for obtaining judicial review of this decision. If you seek judicial review, you **must** name the Labor and Industry Review Commission as a respondent in the petition for judicial review. Appeal rights and answers to frequently asked questions about appealing a fair employment decision to circuit court are also available on the commission's website <http://lirc.wisconsin.gov>.

Procedural History

On December 26, 2019, the complainant filed a complaint with the Equal Rights Division (hereinafter “Division”) of the Department of Workforce Development, alleging that the respondent discriminated against him based upon his conviction record, in violation of the Wisconsin Fair Employment Act. On April 14, 2020, an equal rights officer for the Division issued an initial determination finding no probable cause to believe discrimination occurred. The complainant filed a timely appeal of the adverse determination, and the matter was certified to hearing. After multiple attempts to schedule and conduct a hearing, the details of which are fully set forth in the administrative law judge’s decision, a hearing was ultimately scheduled to be held on March 31, 2021. However, the complainant failed to appear. On June 23, 2021, the administrative law judge issued a decision dismissing the complaint based upon the complainant’s failure to appear. The complainant filed a timely petition for commission review of that decision.

The commission has considered the petition and the positions of the parties, and it has reviewed the information that was before the administrative law judge. Based on its review, the commission agrees with the decision of the administrative law judge, and it adopts the findings and conclusions in that decision as its own.

Memorandum Opinion

In his petition for commission review the complainant argues that the Division failed to have a reasonable working system. The complainant states that he acted as a reasonably prudent person, but the system does not work. He asserts that the Division is at fault for his failure to appear. The commission has considered this argument, but finds it unpersuasive. The complainant was able to appear at the November 30, 2020 prehearing conference using the same hearing technology that he now contends does not work. Thereafter, the administrative law judge took numerous precautions to ensure that he would be able to appear at the March 31, 2021, hearing, as detailed in the administrative law judge’s decision. The commission questions the credibility of the complainant’s assertion that he was unable to appear at the hearing using the WebEx telephone number and code provided, both of which the administrative law judge tested immediately prior to the hearing, nor does it believe that he took reasonable steps to contact the administrative law judge in the event he was having trouble connecting. The complainant had many options available for notifying the administrative law judge that he was unable to connect to the hearing; sending a fax to the Division an hour after the hearing was to have begun was not the act of a reasonable, prudent person under similar circumstances. Because the commission agrees with the administrative law judge that the complainant failed to establish that his failure to appear at the hearing was with good cause, the dismissal of the complaint is affirmed.

cc: Attorney Jodi Arndt Labs