

Chapter LIRC 4

EQUAL RIGHTS AND PUBLIC ACCOMMODATION

LIRC 4.01 Petitions for commission review.
LIRC 4.02 Transcripts.

LIRC 4.03 Rehearings.
LIRC 4.04 Actions for judicial review.

LIRC 4.01 Petitions for commission review. A petition for commission review of the findings and order of a department of workforce development administrative law judge under s. 111.39 (5) or 106.04, Stats., shall be received within 21 days from the date of mailing of the findings and order to the parties by the equal rights division of the department at:

(1) The equal rights division, 819 North Sixth Street, Milwaukee, Wisconsin 53203, or

(2) The central administrative office of the equal rights division, 201 East Washington Avenue, P.O. Box 8928, Madison, Wisconsin 53708.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; am. (1) (intro.) and (b), r. (2), Register, August, 1982, No. 320, eff. 9-1-82; am., Register, January, 1985, No. 349, eff. 2-1-85; am. (1) (intro.), Register, May, 1988, No. 389, eff. 6-1-88; am. Register, May, 1997, No. 497, eff. 6-1-97.

LIRC 4.02 Transcripts. (1) Transcripts of the testimony at hearings before department administrative law judges may be obtained according to s. DWD 218.19, or, in public accommodation, s. DWD 221.20.

(2) Review by the commission shall be based on the record of the case, including a transcript of the testimony, where the record has been transcribed and used by the administrative law judge in preparing a decision, or where a party has obtained a transcript under sub. (1) and provides it to the commission and the opposing party.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 4.03 and am., cr. (2), Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1988, No. 389, eff. 6-1-88; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1995, No. 472; am. Register, May, 1997, No. 497, eff. 6-1-97; corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1999, No. 524.

LIRC 4.03 Rehearings. The provisions of s. 227.49, Stats., with respect to rehearings shall not apply to decisions of the commission, as the commission does not conduct hearings, and commission review under s. 111.39 (5) (b), Stats., is itself an alternative to the rehearing procedure.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 4.04, Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1988, No. 389, eff. 6-1-88; r. and recr. Register, May, 1997, No. 497, eff. 6-1-97.

LIRC 4.04 Actions for judicial review. (1) **FAIR EMPLOYMENT.** Judicial review of any commission order or deci-

sion in fair employment cases under s. 111.39 (5), Stats., shall be commenced in the manner and upon the grounds specified in ss. 227.52 and 227.53, Stats. Any person aggrieved by a final decision of the commission shall be entitled to judicial review in circuit court. Proceedings for review shall be instituted within 30 days from the date of the decision. Such proceedings are instituted by serving a petition for review, either personally or by certified mail, upon the labor and industry review commission in Madison, and, by filing such petition with the clerk of the circuit court for the county where the judicial review proceedings are to be held. Copies of the petition shall be served upon all parties who appeared before the commission in the case not later than 30 days after commencing the proceeding for review. The copies shall be served personally, by certified mail, or when service is timely admitted in writing, by first class mail. The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds upon which review is sought. The petition shall be entitled in the name of the person serving it as petitioner and the commission as respondent. The proceedings shall be in the circuit court of the county where the petitioner resides. If the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane county.

(2) **PUBLIC ACCOMMODATION.** Judicial review of any commission order or decision in public accommodation cases under s. 106.04 (10) (b), Stats., shall be commenced as set forth in s. 106.04 (10) (c), Stats. Within 30 days after service upon all parties of an order of the commission, the respondent or complainant may appeal the order to the circuit court for the county in which the alleged prohibited act took place by the filing of a petition for review. The respondent or complainant shall receive a new trial on all issues relating to alleged discrimination and a further right to a trial by jury, if so desired. The department of justice shall represent the commission. In any such trial the burden shall be to prove an act prohibited under s. 106.04 (9), Stats., by a fair preponderance of the evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be taxed to the prevailing party on the appeal.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 4.05, Register, January, 1985, No. 349, eff. 2-1-85; r. and recr. Register, May, 1997, No. 497, eff. 6-1-97.