

December 16, 2005

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Re: *Terry V. Davis v. City of Perham*
OAH Docket No. 3-3100-16925-2

Dear Counsel:

This letter constitutes the First Prehearing Order concerning matters discussed in the telephone prehearing conference yesterday. Patrick Kelly and David Ramberg appeared for Terry V. Davis (Petitioner); Daniel Wachtler appeared for the City of Perham (City). Robert Louiseau, the City Manager for Perham, also participated in the conference.

1. The issue for hearing is whether the City eliminated the Petitioner's job in good faith.

2. The hearing currently scheduled to take place on December 22, 2005, is continued to February 16, 2006. The hearing will take place either in Minneapolis at the OAH or in Perham, depending on the number of witnesses and the preferences of counsel.

3. The subpoenas requested by the Petitioner on December 13, 2005, will not be issued. The Petitioner has agreed to notify any person who received a copy of a subpoena request form that the hearing has been rescheduled. After additional discovery, the Petitioner may request subpoenas for any witnesses who have relevant knowledge of the facts at issue. If the Petitioner desires to compel the attendance of a city employee or public official, counsel for the Petitioner should contact counsel for the City to see whether agreement can be reached to make the witnesses available without the need for service of subpoenas.

4. The parties shall exchange copies of all exhibits they intend to offer into evidence during the hearing by January 26, 2006. The parties shall by the same date exchange witness lists identifying the witnesses they expect to call and containing a brief summary of the expected testimony for each witness. The parties shall provide to the Administrative Law Judge copies of the exhibit and witness lists on this date.

5. There will be another telephone status conference at 9:00 a.m. on January 31, 2006. Please call 651/284-3547 and follow the directions. The meeting code is "0131." I will assume that everyone who participated yesterday will also participate in the conference call on January 31, 2006. If more than four people total will be participating, please advise me in advance so that I can add lines to the conference call. During the status conference the parties should be prepared to address whether any additional discovery is required, where the hearing will take place, and whether a court reporter will be requested for the hearing.

6. Pre-hearing briefs are not required but may be filed if desired by counsel. At the close of the hearing, we will set deadlines for post-hearing briefs.

Sincerely,

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

Telephone: (612) 341-7602

cc: Docket Coordinator