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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
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LEGAL DIVISION

SUSAN E. THIELMAN :
1579 S. 5th Street :
Milwaukee, WI 53204 : DOCKET NO. HC-11116

Petitioner, :

vs. : RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE :
P.O. Box 8933 :
Madison, WI 53708 :

Respondent. :

Pursuant to notice, this Commission convened in Room 141, Department of Natural Resources Building, 2300 N. Dr. Martin Luther King, Jr. Drive, Milwaukee, Wisconsin, at 9:00 a.m., on November 14, 1985, for the purpose of hearing the above-entitled matter on its merits. At the hearing, the respondent made motion to dismiss the petition for review in this matter on the following grounds:

That the petitioner failed to meet the personal appearance requirements of s. 71.12(3), Wis. Stats., and ss. TA 1.03 and 1.51(2), Wis. Adm. Code; therefore, this Commission lacks jurisdiction to hear the matters of which the petitioner complains in her petition for review.

In the alternative, the respondent moved that the Commission affirm its action on the petitioner's petition for redetermination based on the record presented.

The petitioner, Susan E. Thielman, failed to appear either in person or by a representative. The respondent, Wisconsin Department

of Revenue, appeared by its attorney, Donald Goldsworthy.

The respondent introduced exhibits, made a motion to dismiss the petition for review on the grounds stated above, made a prima facie case on the merits of the matter, and offered oral arguments in support thereof.

Having considered the pleadings, the record, the motion, the prima facie case presented on the merits, and the arguments of the respondent, this Commission finds as

FINDINGS OF FACT

1. The petitioner, Susan E. Thielman, filed a 1983 Wisconsin Homestead Credit Claim with the respondent, Wisconsin Department of Revenue, in which she claimed a total of \$391.

2. Under date of August 3, 1984, the respondent reduced said credit to \$127, with the following explanation:

"Because you could not get the landlord to sign the rent certificate and have no other verification of rent paid you have been allowed the one-fifth of the rent certificate that was signed."

3. The petitioner filed a timely petition for redetermination of the respondent's adjustment, which respondent denied on November 26, 1984.

4. On January 8, 1985, the petitioner filed a timely appeal of the respondent's final action with this Commission.

5. The respondent has established a "prima facie" case. Assessments or adjustments made by the respondent are presumptively correct. The petitioner did not appear at the hearing held on this matter to rebut the presumptive correctness of the respondent's action.

6. Section 71.12(3), Wis. Stats., contains the following:

"No person against whom an assessment of income tax has been made shall be allowed in any action, either as plaintiff or defendant or in any other proceeding to question such assessment unless the requirements of sub(1) shall first have been complied with, and unless such person shall have made full disclosure under oath at the hearing before the tax appeals commission of any and all income received by him. The requirements of this subsection may be waived by the department of revenue."

7. The respondent has established a "prima facie" case which the petitioner has not rebutted.

8. The respondent has shown good cause for the granting of its alternative motion that its action in modifying petitioner's homestead credit claim be affirmed.

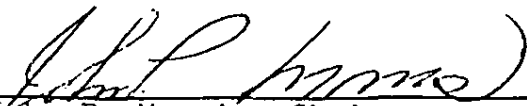
Therefore,

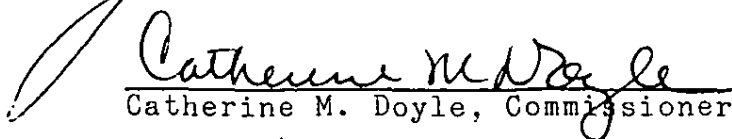
IT IS ORDERED

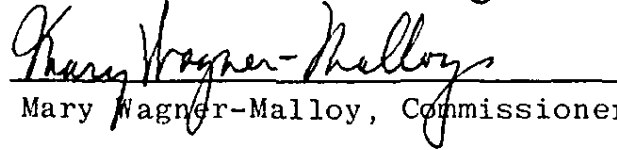
That the respondent's action in adjusting the petitioner's homestead credit claim be and the same is hereby affirmed.

Dated at Madison, Wisconsin, this 20th day of November, 1985.

WISCONSIN TAX APPEALS COMMISSION


John P. Morris, Chairman


Catherine M. Doyle, Commissioner


Mary Wagner-Malloy, Commissioner

cc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"