

MCDUGAL KEVIN HC10298 102384 TAC

Primary

STATE OF WISCONSIN  
TAX APPEALS COMMISSION

STATE OF WISCONSIN  
DEPARTMENT OF REVENUE

RECEIVED  
OCT 24 1984  
LEGAL DIVISION

KEVIN F. MCDUGAL  
1019 Kenwood Court  
Green Bay, WI 54301,

Petitioner,

vs.

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

Respondent.

DOCKET NO. HC-10,298

RULING AND ORDER

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The above-entitled matter having come on to be heard before this Commission; the petitioner, Kevin F. McDougal, having failed to appear and the respondent, Wisconsin Department of Revenue, having not waived his personal appearance; the respondent, Wisconsin Department of Revenue, having appeared by its attorney, Sheree Robertson; and the respondent having moved this Commission for an order dismissing the petitioner's petition for review on the grounds that petitioner's failure to appear violates the personal appearance requirement of s.711.12(3) of the Wisconsin Statutes and moving in the alternative that the Commission affirm its action based on the record presented; having considered the entire record before it, this Commission hereby finds, rules and decides as follows:

1. The petitioner, Kevin F. McDougal, filed a 1982 Wisconsin Homestead Credit Claim with the respondent, Wisconsin Department of Revenue, in which he claimed a total credit of \$597.

2. Under date of May 16, 1983, the respondent reduced said credit to \$501 with the following explanation:

"You may only claim rent for the period of your actual occupancy in 1982. Rent for more than twelve months cannot be allowed."

3. Under date of June 28, 1983, the petitioner filed a timely petition for redetermination of the respondent's adjustment which respondent denied on October 21, 1983.

4. On November 17, 1983, the petitioner filed a timely appeal of the respondent's final action with this Commission. In said appeal the petitioner conceded that he sublet his apartment for a short time in the summer of 1982.

5. The respondent has established a "prima facie" case. The petitioner did not appear at the hearing held on this matter in Green Bay, Wisconsin on September 13, 1984. Assessments or adjustments made by the respondent are presumptively correct.

6. Sec. 71.12(3) of the Wisconsin Statutes 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 and sufficient grounds for the granting of its alternative motion that its action in modifying the petitioner's homestead credit claim be affirmed.


Therefore,

IT IS HEREBY 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 23rd day of October, 1984.

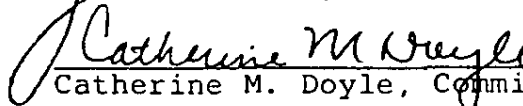
WISCONSIN TAX APPEALS COMMISSION



Thomas R. Timken, Commissioner



John P. Morris, Chairman



Catherine M. Doyle, Commissioner

ATTACHMENT:-

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