

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT - 2 1991
JAMES W. PATTERSON
CLERK

J. B. BENNETT,

Petitioner,

v.

THE OKLAHOMA MERIT PROTECTION
COMMISSION, and JAMES L. HOWARD,
Executive Director of the
Oklahoma Merit Protection
Commission,

Respondent.

No. 77,766

FOR OFFICIAL PUBLICATION

O R D E R

Original jurisdiction is assumed. Respondents, Oklahoma Merit Protection Commission and its director, James L. Howard, are ordered to comply with 74 O.S. Supp.1986 § 841.7, and hold a hearing in J. B. Bennett v. Oklahoma Tourism Commission, Case No. (MPC) 91-395, within thirty (30) days from the date of this order. Section 841.7 is the applicable statute, not section 841.15. Section 841.7 does not give the director the authority to dismiss the case after he has conducted an investigation and determined that the case is meritless. Section 841.7 states: "The Commission shall set such matters down for hearing within thirty (30) days after the filing of a request for review." The word "shall" is mandatory unless a contrary intent appears. Citicorp Sav. and Trust Co. v. Banking Bd., 704 P.2d 490 (Okla. 1985). We can find no contrary intent in the statutes. Therefore, we hold that section 841.7 requires that the Commission conduct a hearing when an aggrieved employee or former employee files a request for such a hearing pursuant to that section.

Mandamus to require the respondents to hold a hearing in J. B. Bennett v. Governor David Walters, Case No. (MPC) 91-405 is denied. The Oklahoma Merit Protection Commission does not have jurisdiction over the Governor. Okla. Const. art. VIII, § 1.