

STATE OF WISCONSIN

BOARD OF PERSONNEL

ROBERT C. FOX,

Appellant,

v.

DEPARTMENT OF INDUSTRY,
LABOR & HUMAN RELATIONS
AND STATE BUREAU OF
PERSONNEL,

Respondents.

OPINION
AND
ORDER

#540

Before: AHRENS, Chairman, SERPE, JULIAN, and STEINIGER
JULIAN, for himself and Board Members, AHRENS, SERPE,
and STEINIGER. This is an appeal under section 16.05(1)(f),
Wis. Stats., from an action of the Director of the Bureau of
Personnel relating to a delegated examination.

From an examination of the record as it presently
exists, we find the following facts:^{1/}

1. On October 19, 1972, appellant took an examination
for the position of Administrative Assistant 4--Equal Opportunity--
Affirmative Action and Youth.

2. The examination was scheduled and held under the direction
of the Department of Industry, Labor & Human Relations under the
delegation of C. K. Wettengel, Director, State Bureau of
Personnel.

3. The competitive rankings were mailed to all of the
applicants including appellant on or about October 26, 1972.

4. Appellant lived in Madison, Wisconsin, at the time
the rankings were mailed.

^{1/} Section 227.13, Wis. Stats.

5. By letter dated November 19, 1972 and received by the Personnel Board on November 21, 1972, appellant appealed from the actions of the Director and the Department with respect to the examination.

6. A pre-hearing conference was held in this court on December 19, 1972.

7. At the pre-hearing conference, Respondents challenged the jurisdiction of the Personnel Board to hear appellant's case on the merits alleging that his appeal was untimely.

8. By letter dated December 23, 1972, to the Executive Secretary of the Personnel Board appellant conceded that his notice of appeal was not forwarded to the Personnel Board within the prescribed time.

9. Appellant's notice of appeal was not received by the Personnel Board within 15 days after the effective date of Respondents' decision or within 15 days after appellant was notified of the decision, whichever was later.

Having found these facts we must decide that we are without jurisdiction to hear this appeal, Section 16.05(1)(f), Wis. Stats. allows us to "Hear appeals of interested parties and of appointing authorities from actions and decisions of the director..." [of the STATE BUREAU OF PERSONNEL]. However, Section 16.05(2), Wis. Stats., provides that such appeals shall not be granted by the Personnel Board "unless a written request therefor is received by the board within 15 days after the effective date of the decision, or within 15 days after the appellant is notified of such decision, whichever is later..." Appellant's notice of appeal was not received within the time required by Section 16.05(2), the appeal was, therefore, untimely.

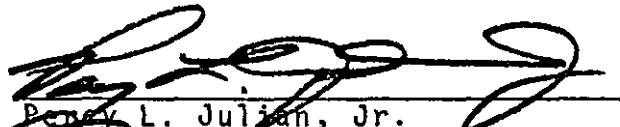
Accordingly, we conclude^{2/} that we have no jurisdiction and appellant's appeal must be dismissed.

ORDER

Upon the entire record herein, IT IS ORDERED, that the appeal of Robert C. Fox, appellant, be and it hereby is dismissed.

Entered at Madison, Wisconsin this 2nd day of ~~January~~^{February}, 1973.

By The BOARD OF PERSONNEL


Percy L. Julian, Jr.
Board Member

Board Member BRECHER took no part in this decision.

^{2/} Section 227.13, Wis. Stats.