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 BILLY JOE DEMENT,
 Appellant,
 v.
 WERNER A. BAUM, Chancellor,
 University of Wisconsin-Milwaukee
 and C. K. WETTENGEL, Director,
 State Bureau of Personnel,
 RESPONDENTS.
 * * * * *

OPINION
 AND
 ORDER

Case No. 73-1

OPINION

At the prehearing conference in this matter, an issue arose concerning the scope of the appeal. Counsel for the Appellant and counsel for both Respondents, Baum ^{1/} and Wettengel, agree that the matter of whether Mr. Dement was entitled to five veteran's preference points on his examination score for the position of Superintendent of Buildings and Grounds II at the University of Wisconsin-Milwaukee is an issue to be determined in this proceeding. Counsel for the Appellant, in addition, contends that the question whether the successful candidate for the position, Leonard J. Skodinske, possessed the basic qualifications for the position, may be properly heard on this appeal.

On December 4, Mr. Dement filed a third step grievance under the civil service grievance procedure, which presumably was preceded by steps one and two, wherein he indicated he was seeking relief "in that the position was illegally filled." On December 26, Allen C. Cottrell filed a reply noting, "The time limits for answering this grievance were extended by mutual agreement to allow for a thorough investigation of this matter." The University's third step reply did not claim that the grievance was untimely. It dealt extensively with the question on the veteran's points, but did not discuss in any way Mr. Dement's claim relative to the manner in which the appointment was made to the Superintendent's position by the University. On December 29, the Personnel Board received a timely appeal of the third step

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 On August 13, 1973, Werner A. Baum replaced J. Martin Klotsche as Chancellor at the University of Wisconsin-Milwaukee and we have today entered a separate order substituting him as a party respondent.

grievance determination from counsel for the Appellant.

The Director has general powers over the examination and certifying for selection by appointing authorities of applicants for civil service jobs. Interested parties and appointing authorities may appeal his decision within fifteen (15) days after the effective date of the decision, or within fifteen (15) days after the Appellant is notified of such decision, whichever is later. Section 16.05(1) (f) and (2) contemplates a relatively short time limit for Appellants who receive notification to contest the Director's action. In the instant case, the decision of the Director, which appears to have been delegated to the University, to accept Mr. Skodinske's application as showing fulfillment of the basic requirements for the job was not the subject of any notification to Mr. Dement. Quite to the contrary, the Director maintains that, at least in the absence of an appeal, he would not disclose the names of other candidates for the position to any other candidate. Therefore, any time limits on appeals of the Director's action seem particularly inapplicable to situations where the complaining party has received no notification of the Director's action.

In this case, Appellant used two routes to challenge the selection of Mr. Skodinske for the Superintendent's position. He filed a timely appeal of the withdrawal of veteran's preference points on his own examination score. The matter is not in controversy as far as it being a properly brought appeal to the Board. He also filed a grievance under the civil service grievance procedure and filed a timely appeal from the third step to this Board.

Section 16.05(4), Wis. Stats. has been held to provide a sufficient statutory basis to allow the Personnel Board to function as a final step in grievances alleging a violation or incorrect

interpretation or unfair application of civil service statute or regulation.^{1/} Section 16.05(7) is to the same effect.

We find that the Appellant's third step grievance did raise the contention that the position was illegally filled and, therefore, the matter of whether Mr. Skodinske has the basic qualifications for the job may be properly determined in this proceeding. Even had the Appellant not raised the issue by way of the grievance procedure, the Board is the proper forum for determining alleged violations of the civil service law. Section 16.05(4) has a legislative fact finding aspect to it in that, after hearing, the Board may issue recommendations concerning all matters touching the enforcement and effect of the civil service law and rules thereunder. At the same time, the subsection has an adjudicatory aspect, in that, if after proper proceedings, the Director, appointing authority or any other person is determined to have acted illegally, the Board may issue an appropriate enforceable order directing the Director or appointing authority to take appropriate action. Hence, this section creates broad authority in the Board to entertain complaints by interested persons concerning alleged violations of the civil service law without limitations as to the subject matter of the inquiry or time limits on bringing such complaints, except that Appellants, who receive the statutory notice in disciplinary matters or who are notified of action by the Director, are bound by the fifteen-day time limits prescribed by law in those circumstances.

^{1/} Waggoner and Denniston v. State Personnel Board, Dane Co. Cir. Ct. (Sachtjen), Case No. 134-442, July 21, 1972.

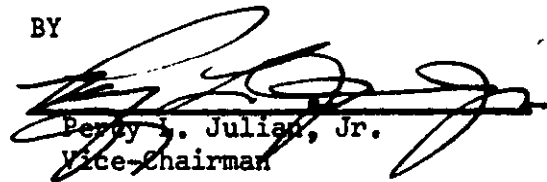
ORDER

It is ordered that Leonard J. Skodinske be joined as a party Respondent and that the proceedings, which have been properly brought, proceed to consider the matter of Mr. Skodinske's qualifications for the Superintendent's position, after due notice to him of Appellant's specific allegations in that regard.

Date October 24, 1973

STATE PERSONNEL BOARD

BY


Percy S. Julian, Jr.
Vice-Chairman