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ALBERT KWALLEK,

Appellant,

v.

ANTHONY S. EARL, Secretary,  
Department of Natural Resources,

Respondent.

Case No. 74-126

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OPINION AND ORDER

**OFFICIAL**

Before: JULIAN, Chairperson, SERPE and STEININGER, Board Members

OPINION

I. Facts

Grievant is a permanent employee working for the Department of Natural Resources (hereinafter called the Department) at the Lancaster Station. His position was classified as Conservation Warden.

In 1963 an agreement was made by the then Governor Gaylord Nelson and the Conservation Committee Chairman. By this agreement an employee who had a state car assigned to him could use such car for personal purposes including traveling during vacations. The only limitation was that the employee make payment to the state for the personal miles driven.

On October 21, 1974 Grievant requested that he be permitted to use the car assigned to him for his vacation to be taken from December 9, 1974 to December 15, 1974. This written request was addressed to the Respondent. Grievant had made similar requests in the past which apparently had been granted. On November 5, 1974 Alta Ehly, Natural Resources Administrator 3, denied Grievant's request on the basis that there had been a recent change in the rules regarding personal use of assigned cars.

Shortly after receiving Mr. Ehly's response, Grievant filed a grievance. This first step and the subsequent two were denied. On December 4, 1974 Grievant appealed to this Board the third step denial of his grievance.

On March 4, 1975 a copy of Grievant's appeal letter and grievance forms were sent to Carl Wettengel, then Director of the Bureau of Personnel, for an investigation. Mr. Wettengel concluded that the subject matter of this grievance was one that was properly a subject for collective bargaining and, therefore, the Personnel Board did not have jurisdiction.

## II. Conclusions

### The Personnel Board Lacks Jurisdiction Over This Appeal

Grievant is a member of a collective bargaining unit, namely, Security and Public Safety. As such, Grievant's remedies for complaints arising out of bargainable subjects are limited to those provided for under the Agreement between the State of Wisconsin as employer and AFSCME Council 24 Wisconsin State Employees Union, AFL-CIO (hereinafter called the Agreement). Section 111.93(3), Wis. Stats., states:

If a labor agreement exists between the state and a union representing a certified or recognized bargaining unit, the provisions of such agreement shall supersede such provisions of civil service and other applicable statutes related to wages, hours and conditions of employment whether or not the matters contained in such statutes are set forth in such labor agreement.

Grievant apparently had assigned to him a particular state automobile. Whether he shared the use of this car with another state employee was not shown by the record. Grievant's use of the automobile was a condition of his employment. As such it would be a proper subject for bargaining. See Section 111.91(1), Wis. Stats.. However, there is nothing in the Agreement which covers this particular subject. Nonetheless, by referring to Section 111.93(3) which is quoted above, we conclude that the grievance procedure which may

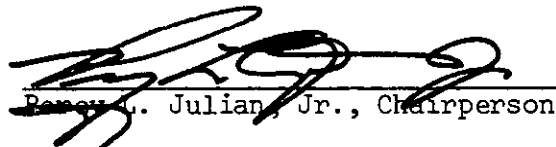
ultimately end in arbitration and which does not involve the Personnel Board is the only remedy Grievant has under the Agreement.

Article X of the Agreement does provide that this Board has jurisdiction over certain complaints which may arise between the employer and union employee but these do not include the subject of the instant grievance. See also Section 111.91(2)(b)(1) and (2), Wis. Stats.. Therefore, we conclude we have no jurisdiction to hear this appeal which arises under the Agreement.

ORDER

IT IS HEREBY ORDERED that this appeal is dismissed.

Dated December 22, 1975. STATE PERSONNEL BOARD

  
Robert C. Julian, Jr., Chairperson