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MARY M. CZYNSZAK,

Appellant,

v.

JOHN C. WEAVER, President,
University of Wisconsin,

Respondent.

Case No. 74-23

* * * * *

OFFICIAL

OPINION AND ORDER

Before: JULIAN, Chairperson, STEININGER and WILSON, Board Members.

OPINION

I. Facts

By letter dated March 25, 1974 Appellant, who was still on probation, appealed her discharge from U.W. Hospital Food Service Department. The effective date of the discharge was March 27, 1974. Her appeal letter was received by this Board's office on March 29, 1974. The final paragraph of the letter stated:

I would appreciate any assistance you can provide me and I would hope that someone will look into the hiring and firing practices of the UW Hospital Food Service Department.

A prehearing conference was held and a report, dated May 1, 1974, was issued as a result thereof. It was stipulated by the parties that the instant appeal would be held in abeyance until another appeal before the Board, Schwartz v. Schmidt, Case No. 74-18, was decided. This latter case raised similar jurisdictional issues as the instant appeal. Schwartz v. Schmidt (supra) was decided on January 17, 1975.

On January 28, 1975 a letter was sent by William Berg, an Attorney for the Board, to Appellant. A copy of the Schwartz decision was enclosed. The letter requested that Appellant submit a written statement setting forth "in reasonable detail in just what way (she) believe(d) the hiring and firing practices of the Food Service Department were questionable or illegal." The letter further requested that Appellant make her response within ten days of receipt thereof and failure to do so would cause the appeal to be dismissed. No response was received.

On February 20, 1975 Nancy Colehour, the secretary for the Board, contacted Appellant by telephone. Appellant informed Ms. Colehour that she had not received Mr. Berg's letter because she had moved and her mail had not been forwarded. Her former address was that of her parents.

Ms. Colehour sent a copy of Mr. Berg's letter, asking Appellant for an answer as to whether she wished to proceed with her appeal. Appellant indicated she would do so. However, no response has been forthcoming from Appellant.

II. Conclusions

Appellant filed a timely appeal. The effective date of her termination was May 27, 1974 and the appeal letter was received by this Board's office May 29, 1974.

Appellant was evidently on probation when she was terminated. Generally, an employee can be terminated at any time during probation and has no right to appeal from such termination. (Section 16.22' (1) (a),

Wis. Stats.; Wisconsin Administrative Code Section Pers. 13.09 (1) (a).) Apparently Appellant did not come under any exceptions to this general rule. (Wisconsin Administrative Code Section Pers. 13.09 (1) (b).)

In Schwartz v. Schmidt, Case No. 74-18, decided January 17, 1975, we held that the Personnel Board could take jurisdiction over a case involving the termination of a probationary employee. However, we also held that this power to take jurisdiction found under Section 16.05 (4) was discretionary. We stated:

The Board does have the authority to investigate and hold a hearing concerning the allegation that probationary employees are being discharged by persons who are not appointing authorities. A discharged probationary employee is an "interested person." The subject matter is one "touching the enforcement and effect" of the civil service law. If the Board finds conduct which it concludes is illegal, it can issue an enforceable order for "appropriate" action. Therefore, we conclude, that given the broad language of the subsection granting the Board power to investigate "all matters" involving the civil service, the Appellant's Complaint and Request for Investigation states sufficient facts to invoke the power of the Board to proceed in the matter, if it chooses to exercise such power. (Schwartz, supra, pg. 3.)

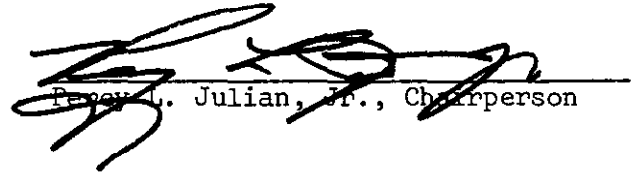
In the January 28, 1975 letter we requested further information from Appellant so as to determine whether it would be appropriate for the Board to take jurisdiction. Assuming that Appellant did not receive the letter the first time, it was sent out again to her on February 20, 1975. She had been personally contacted before it was sent the second time. She was told that it was being sent and that the Board wished a response. No response was received.

In light of Appellant's failure to prosecute her appeal, we choose not to exercise our power of investigation.

ORDER

IT IS HEREBY ORDERED that this appeal be dismissed.

Dated October 17, 1975. STATE PERSONNEL BOARD


Peter L. Julian, Jr., Chairperson