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 *
 MARY F. LINTNER, *
 *
 Appellant, *
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 v. *
 *
 JOHN MOSES, Secretary, *
 Department of Veteran Affairs, *
 *
 Respondent. *
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 Case No. 75-83 *
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OFFICIAL

OPINION AND ORDER

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

NATURE OF THE CASE

This is an appeal of the termination of a probationary employe. The Respondent has taken the position that this Board has no subject matter jurisdiction of this case.

FINDINGS OF FACT

The parties are not in dispute concerning the facts as they relate to jurisdiction, and, accordingly, we find them to be as follows. The Appellant commenced employment with the state on February 17, 1975, as a Nursing Assistant I and was discharged on July 7, 1975, while in a probationary status. She had no other prior employment with the state.

CONCLUSIONS OF LAW

Section 16.05(1)(e), Wis. Stats., restricts appeals of discharges to this Board to employes having "permanent status in class." The Appellant as a probationary employe did not have permanent status in class at the time of her termination, see S. Pers. 13.11, W.A.C., and therefore did not have any jurisdictional basis for an appeal to this Board. This conclusion is also consistent with S. 16.22(1)(a), Wis. stats., which provides: "Dismissal may be made at any time

during such probationary periods," and S. Pers. 13.09(1)(a), W.A.C.:
". . . the appointing authority may dismiss any employe during a
probationary period without the right of appeal."

The Appellant argues that there were certain defects in her
evaluation and in the agency's non-observance of certain requirements
relative to probationary employes. She argues that the transaction
is appealable pursuant to S. Pers. 26.02(4), (5), and (8), and that
"jurisdiction in this matter is vested in the director under section
personnel 26.03(1) and in the board under the same provision
subparagraph section 2 with ultimate review on the board of the
director's actions." letter from Appellant's attorney dated May 4, 1976,
p. 2.

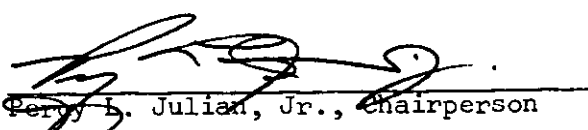
In this regard, we note that S. Pers. 26.02(4), appealable actions,
is restricted to actions against "employes with permanent status
in class." Further, we have no reason to reach any conclusions as to
whether there is any subject matter in this case which is
appealable to the director, since even if that were the case it
would not provide a jurisdictional basis for an appeal to this Board.
There has been no representation that there has been an action or
decision of the director that would be appealable to the Board
pursuant to S. 16.05(1)(f), Wis. Stats.

ORDER

IT IS HEREBY ORDERED that this appeal is dismissed.

Dated July 26, 1976.

STATE PERSONNEL BOARD


Perry L. Julian, Jr., Chairperson