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RON MCCANE, *

Appellant, *

v. *

JAMES J. LISON, JR., Adjutant General, *

Department of Military Affairs, *

Respondent. *

Case No. 76-149 *

* * * * *

OFFICIAL
DECISION AND ORDER

Before: DEWITT, Chairperson, WARREN and MORGAN, Board Members.

DECISION

Appellant whose position was classified as Security Officer was terminated effective July 30, 1976. Appellant appealed the termination by letter received by this office on August 13, 1976. Appellant's position was covered by the Security and Public Safety Collective bargaining unit.

Respondent has raised two jurisdictional issues. The first argues that the Board lacks jurisdiction to hear appeals from the nonretention of probationary employes under Article IV, Section 10 of the Agreement between AFSCME Council 24 Wisconsin State Employees Union, AFL-CIO and the State of Wisconsin. This issue has been adequately discussed in our decision in In re Request of the American Federation of State, County and Municipal Employees (AFSCME), Council 24, Wisconsin State Employees Union, AFL-CIO, for a Declaratory Ruling, Case No. 75-206 (August 24, 1976) in which we determined that the contract clause did give us jurisdiction to hear these cases at our discretion. See also Malm v. Weaver, Case No. 75-230 (August 24, 1976). Therefore, we conclude that we do have jurisdiction to hear this appeal.

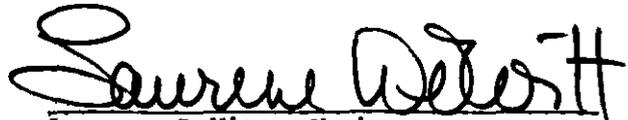
Respondent further contends that even assuming that we do have jurisdiction, we should not exercise our discretion to hear this appeal. However, we conclude that this appeal does not appear frivolous on its face. Therefore, we will hear this appeal. Appellant has the burden of showing that Respondent's action to terminate was arbitrary and capricious.

ORDER

IT IS HEREBY ORDERED that this appeal be processed in accordance with this decision.

Dated February 23, 1977.

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson