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 *
 CLAIR GRIGGS, *
 *
 Appellant, *
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 v. *
 *
 JOHN C. WEAVER, President, *
 University of Wisconsin, and *
 VERNE KNOLL, Deputy Director, *
 State Bureau of Personnel, *
 *
 Respondents. *
 *
 Case No. 76-184 *
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 * * * * *

OPINION AND ORDER

OFFICIAL

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

NATURE OF THE CASE

This is an appeal pursuant to Section 16.05(1)(f), stats., of a denial of a request for reclassification. The respondent has objected to subject matter jurisdiction on the grounds that the appeal was not timely filed. The parties have filed briefs on this question.

FINDINGS OF FACT

These findings are based on undisputed matter appearing in the file and on factual assertions made by appellant. Appellant received a copy of a memo denying his reclassification request on August 23, 1976. A copy of this memo, dated August 18, 1976, marked Board's Exhibit 2, is attached hereto. The memo contained the following paragraph:

"If the employe or appointing authority believes this classification action to be incorrect . . . he shall, upon written request, be entitled to an appeal from such action provided that a notice of such appeal is filed not more than 15 calendar days after the receipt of notice of such action. Any questions on the appeal procedure are to be directed to the Madison Campus Personnel Office."

The appellant then consulted his union steward and they prepared an appeal letter dated August 31, 1976. A copy of this letter, marked Board's

Exhibit 1, is attached hereto. On September 3, 1976, appellant took his reclassification papers to the Madison Campus Personnel Office. There, he was told that ". . . I would have to 'send the papers downtown to One West Wilson Street,' I was never told where to send the reclassification papers."

Following this conversation, appellant consulted with his union steward who told him "to send it to the Bureau of Personnel at One West Wilson Street since this was a place he was familiar with." The appellant then, on September 3, 1976, sent the letter marked Board's Exhibit 1 to the Bureau of Personnel. This was date stamped by the bureau on September 7, 1976, and sent to the Madison Campus Central Personnel Office. That office in turn transmitted it to this board where it was received September 10, 1976.

CONCLUSIONS OF LAW

The appeal was received by this board after the 15 day period set forth in Section 16.05(2), stats. While this normally is jurisdictional and prevents the board from hearing the appeal, in certain cases where an employe may be misled as to the appropriate appeal route by agency employes, the agency may be prevented, or "collaterally estopped" from raising the question of timeliness. See Pulliam and Rose v. Wettengel, Wis. Pers. Bd. No. 75-51 (11/25/75).

In this case, the respondent argues that it is significant that the appellant did not inquire further at the central personnel office as to where he should send the appeal once he had been told to send it "downtown to 1 West Wilson Street," but rather went to a union representative who advised him to send the appeal to the personnel bureau.

However, it is significant that in the notice of denial of reclassi-

fication, the agency gave no specific instructions as to where to file an appeal. It merely states that the notice of appeal must be filed within 15 calendar days. It further stated: "Any questions on the appeal procedure are to be directed to the Madison Campus Personnel Office." When the appellant went to that office he was not told that he must file his appeal with the Personnel Board. Rather, he was merely told to "send the papers downtown to One West Wilson Street." Such a statement infers that it is not particularly significant with which agency (the Personnel Board or Personnel Bureau) the appellant filed.

When the agency advised the appellant through the August 18th memo that he should direct questions on the appeal procedure to the campus personnel office, it was not inappropriate for him to rely on that manner of proceeding for accurate advice on where to file his appeal. When he received generalized advice from that office, he cannot be held accountable for failing to inquire further. On the record before us to date, we conclude based on the authorities cited in the Pulliam and Rose case that respondent is equitably estopped from relying on a timeliness objection.

ORDER

The respondent's objection to the subject-matter jurisdiction of the board grounded on the theory that the appeal was untimely is denied.

Dated February 23, 1977.

STATE PERSONNEL BOARD



Laurene DeWitt, Chairperson