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 DONNA E. DAVIS, et al., *
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 Appellants, *
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 v. *
 *
 SECRETARY, Department of Health *
 and Social Services, *
 *
 Respondents. *
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 Case No. 76-84 *
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OFFICIAL

OPINION AND ORDER

Before: James R. Morgan, Calvin Hessert and Dana Warren, Board Members.

NATURE OF THE CASE

This is an appeal of a noncontractual grievance. The Board entered an Interim Opinion and Order dated March 21, 1977, in which it concluded that based on the record to that date the appellants had alleged "a violation, incorrect interpretation or unfair application of" s. 16.01(2), Stats., and denied a motion to dismiss. Further jurisdictional issues were raised by respondent's objections to certain proposed issues. At a prehearing conference held March 14, 1978, the parties agreed that the Board might decide the question of jurisdiction on the basis of the record to date.

FINDINGS OF FACT

The Board incorporates by reference as if fully set forth the findings contained in the Interim Opinion and Order dated March 21, 1978. The Board makes an additional finding based on undisputed matter in the record that at all relevant times the appellants' positions were subject to a collective bargaining agreement.

CONCLUSIONS OF LAW

1. The Personnel Board jurisdiction over this appeal is pre-empted by the provisions of s. 111.93(3), Stats.
2. There is no basis for hearing this matter under the hearing officer procedures set forth in Article X of the contract and s. 111.91(3), Stats. See Rich v. Carballo, Wis. Pers. Bd., 75-10 (6/13/77).

OPINION

Section 111.93(3), Stats., provides:

"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."

The effect of this statute is very broad. Once a labor agreement is in existence it supersedes all statutory provisions relating to wages, hours and conditions of employment. The Board's jurisdiction in such cases is pre-empted.

An argument might possibly be made that this appeal could be construed as an attempt to invoke the hearing officer procedure provided for under s. 111.91(3), Stats. However, in Rich v. Carballo, Wis. Pers. Bd. No. 75-10 (6/13/77), the Board held that there was no jurisdiction over an appeal involving the assignment of duties, on the ground that the assignment of duties "does not fall within the enumeration of matters set forth as subject to the hearing officer procedure contained in Art. X, s. 1, and s. 111.91(3)." The instant appeal involves a grievance concerning a reorganization and a charge in the reporting relationship

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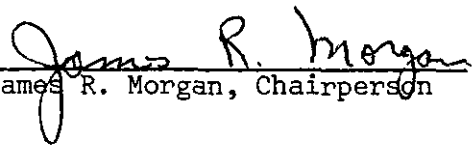
required of appellants, and this subject matter is not covered by s. 111.91(3),
Stats.

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated: May 18, 1978

STATE PERSONNEL BOARD


James R. Morgan, Chairperson