
DONALD ADRIANSEN,

Appellant,

v.

VIRGINIA HART, Chairperson,
Dept. of Industry, Labor & Human Relations,

Respondent.

Case No. 77-132

OFFICIAL

ORDER

Before: DeWitt, Chairperson, Wilson, Warren and Hessert, Board Members

This is an appeal of a discharge received by the board June 28, 1977. By letter dated July 18, 1977, the respondent has moved to dismiss the appeal for lack of subject matter jurisdiction on the ground that the appellant's classification, Equal Rights Officer 2, was included in the Professional - Social Services & Research, Statistics and Analysis bargaining unit of AFSCME, Council 24, WSEU, and that Article IV, Section 5 of the applicable contract make the contractual grievance procedure exclusive. The appellant in his response to this letter has not denied that he is covered by that contract.

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 relating to wages, hours and conditions of employment whether or not the matter contained in such statutes are set forth in such labor agreement."

This provides the basis for a conclusion that the board has no jurisdiction over a discharge appeal when such a contract is in force. This conclusion is reinforced by Section 111.93(1), which provides that appeal to the board is reserved only for employes where no labor agreement exists:

"If no labor agreement exists between the state

Adriansen v. Hart, 77-132
Page Two

and a union representing a certified bargaining unit,
employees in the unit shall retain the right to appeal
under Section 16.05(1)(e)."

See also Olbrantz v. Earl, Wisconsin Personnel Board, 75-9, 3/25/75;

Schrimpf v. Hart, Wisconsin Personnel Board, 75-48, 11/26/75.

ORDER

This appeal is dismissed.

Dated August 1, 1977.

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson