

STATE OF WISCONSIN

STATE PERSONNEL BOARD

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DOUGLAS DUBOIS AND JONATHAN PASK,

Appellants,

v.

SECRETARY, Department of Veterans  
Affairs,

Respondent.

Case No. 77-229

\* \* \* \* \*

**OFFICIAL**

OPINION  
AND  
ORDER

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

NATURE OF THE CASE

This is an appeal under Article X of the agreement between WSEU, AFSCME, Council 24, and its appropriate affiliated locals, and the State of Wisconsin and its agencies. The respondent has objected to jurisdiction on the grounds that there is no jurisdiction under Article X as the subject matter involves management rights under § 111.90, stats. The board has reviewed the entire record and takes notice of all documents filed to date. The following findings are based on uncontested matter appealing in the file.

FINDINGS OF FACT

1. The appellants at all relevant times have been employed in the classified service in positions subject to the agreement between the WSEU, AFSCME, Council 24, and its appropriate affiliated locals and the State of Wisconsin.
2. The appellants filed a grievance alleging a violation of Article X of the contract in that persons classified as Laundry Workers are ordered to work

out of their classification by performing duties of another classification specifically Building Maintenance Helper duties. See letter from union dated March 16, 1978, appeal letter dated December 22, 1977.

CONCLUSIONS OF LAW

1. The subject matter of this grievance does not fall within the matters permitted by the legislature to be heard by a hearing officer. See §§ 111.91(3); 111.91(2)(b) 1. and 2., Wis. stats.
2. The Personnel Board lacks subject matter jurisdiction over this appeal.

OPINION

Section 111.91(3), Wis. stats., provides in part:

"The employer may bargain and reach agreement with a union representing a certified unit to provide for an impartial hearing officer to hear appeals on differences arising under actions taken by the employer under sub (2) (b) 1. and 2."

Subsection (2) (b) 1. and 2. provide as follows:

(2) Except as provided in sub (3), the employer is prohibited from bargaining on:

\* \* \*

(b) Policies, practices and procedures of the civil service merit system relating to:

1. Original appointments and promotions specifically including recruitment, examinations, certifications, appointments and policies with respect to probationary periods.
2. The job evaluation system specifically including position classification, position qualification standards, establishment and abolition of classifications, assignment and reassignment of classifications to salary ranges, and allocation and reallocation of positions to classifications, and the determination of an incumbent's status resulting from position reallocations."

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In Rich v. Carballo, Wis. Pers. Bd., Case No. 75-10, (6/13/77), the Board concluded:

"The subject matter of this appeal involves the assignment of duties to certain employes employed as Institutional Aides. Jurisdiction was based on Article X, Section 1 of the contract and Section 111.91(3), Wis. stats. The assignment of these duties does not fall within the enumeration of matters set forth as subject to the hearing officer procedure contained in Article X, Section 1, and § 111.91(3), and therefore we conclude that the board has no jurisdiction over this appeal."

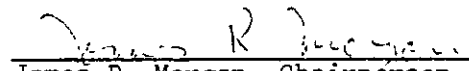
Based on the foregoing rationale, this appeal must be dismissed.

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated: April 11, 1978

STATE PERSONNEL BOARD

  
James R. Morgan, Chairperson