STATE OF WISCONSIN

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* ROBERT LOVAS * DONALD HOLT, * * Appellants * . ** v. * OPINION AND ORDER * * SECRETARY, DEPARTMENT OF TRANSPORTATION, * * Respondent. OFFICIAL * Case No. 77-83 ÷

Before: Morgan, Hessert and Warren, Board members.

FINDINGS OF FACT

This is an appeal of the denial at the third step of a non-contractual grievance requesting deductions from appellants' payroll checks of their dues to the Wisconsin Enforcement Bureau Supervisor's Association, Inc. The respondent filed a motion to dismiss on the grounds of failure of subject matter jurisdiction. These findings are based on undisputed factual matter contained in the record. The board has reviewed the entire record.

CONCLUSIONS OF LAW

The respondent argues that the board has no jurisdiction under s. 16.05 (7), Stats., because the non-contractual grievance procedure promulgated by the director limits appeals of grievances to the personnel board at the fourth step to grievances:

". . . which allege that an agency has violated, through incorrect interpretation or unfair application:

1. a rule of the director, state bureau of personnel, or a civil service statute (s. 16.01 - 16.38, Wis. Stats.)

or

2. a function where the director of the state bureau of personnel has <u>expressly</u> delegated his authority to the appointing office . . . "

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The statute which covers payroll deductions is s. 20.921, which provides in part as follows:

"(1) OPTIONAL DEDUCTIONS (a) Any state officer or employe may request in writing through the state agency in which he is employed that a specified part of his salary may be deducted and paid by the state to a payee designated in such request for any of the following purposes:

* * *

(2) Payment of dues to employe organizations.

* * *

(4) Other group or charitable purposes approved by the governor and the department of administration under rules of the department of administration."

Nowhere in this section or elsewhere can we perceive any role of the director with regard to payroll deductions. Furthermore, neither the personnel rules nor the civil service statutes cover this issue. While it must be concluded that the board lacks jurisdiction, we do note that the respondent misquoted s. 20.921(1)(a) in denying this request, the secretary having said in part:

"I have been informed that the state's policy with regard to automatic deductions . . . is limited to the following deduction types:

* * *

2. Payment of dues to Labor Organizations.

* * *

In my opinion, deducting dues for your organization would not be compatible with the state policy (or payroll system)." (emphasis supplied)

As was set forth above, subparagraph 2 of s. 20.921(1)(a) refers to "employe organizations," not "labor organizations." Without expressing any opinion on the significance of this variance, we do point this out to the parties.

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated: _______, 1977.

STATE PERSONNEL BOARD

James R. Morgan, Chairperson