

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*  
 \*  
 DAVID L. WING, \*  
 \*  
 Appellant, \*  
 \*  
 v. \*  
 \*  
 UNIVERSITY OF WISCONSIN, \*  
 \*  
 Respondent. \*  
 \*  
 Case No. 78-203-PC \*  
 \*  
 \* \* \* \* \*

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal of an appointment. At the prehearing conference the respondent objected, among other things, to subject matter jurisdiction. The parties through counsel have submitted briefs.

FINDINGS OF FACTS

1. The appellant's appeal letter to the Commission dated October 6, 1978, contained, in part, the following:

"The following is a formal appeal under Section 230.44(1), illegal action or abuse of discretion (related to the hiring process).

\* \* \*

I appeal Mr. James Freer's move to the Unclassified Service to provide him with;

- 1) A salary increase as a reward for banking of funds.
- 2) Protection from possible declassification if I win my appeal currently before the Commission on a reallocation notice."

OPINION

Section 230.44(1)(d), Wis. Stats. (1977), provides:

"A personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the Commission."

The appellant argues in his letter-brief dated February 7, 1979:

"As pointed out in Respondent's Exhibit No. 1, this limited appointment was with a concurrent appointment in the 'classified service as Controller/Director of Financial Services.' Therefore, it is a personnel action in the hiring process in the classified service. We, of course, are alleging that it was illegal or an abuse of discretion."

While the concurrent appointment in the classified service may fall within the purview of §230.44(1)(d), what is being appealed here is an appointment in the unclassified service, not the concurrent appointment in the classified service.

The Commission is unable to discern any way in which the subject matter of this appeal, an appointment to an unclassified position, falls within the purview of the Commission's jurisdiction. It is unnecessary for the Commission to address other questions that have been raised relating to the appellant's standing and the Commission's authority to grant the requested remedy.

CONCLUSION OF LAW

The Commission lacks jurisdiction over an appeal of an appointment to an unclassified position.

ORDER

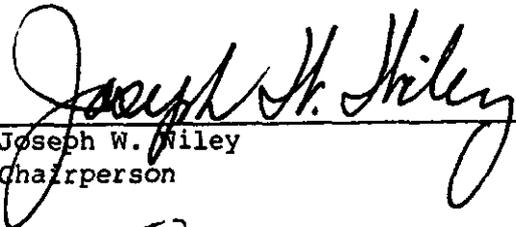
This appeal is dismissed for lack of subject-matter jurisdiction.

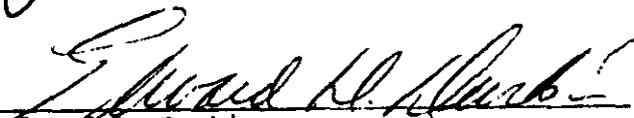
Dated:

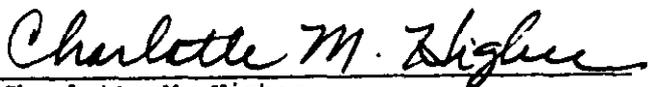
April 19

, 1979.

STATE PERSONNEL COMMISSION

  
\_\_\_\_\_  
Joseph W. Wiley  
Chairperson

  
\_\_\_\_\_  
Edward D. Durkin  
Commissioner

  
\_\_\_\_\_  
Charlotte M. Higbee  
Commissioner

AJT:jmg