

STATE OF WISCONSIN

PERSONNEL COMMISSION

 *
 CLIVE R. ADAMS, *
 *
 Appellant, *
 *
 v. *
 *
 Secretary, DEPARTMENT OF HEALTH *
 & SOCIAL SERVICES, *
 *
 Respondent. *
 *
 Case No. 79-237-PC *
 *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal from the termination of appellant by the respondent from the position of research analyst 1 to which appellant was appointed on limited term employment status. Respondent objected to the jurisdiction of the Commission and moved to dismiss the appeal as untimely and beyond the jurisdiction of the Commission.

FACTS

1. On January 2, 1979, appellant was appointed by respondent to a limited term position as a research analyst 1 in the Division of Corrections.
2. Appellant was terminated from this position on January 25, 1979.
3. On August 29, 1979, appellant filed with the Personnel Commission an appeal of his January, 1979, termination.

CONCLUSIONS OF LAW

1. When untimeliness is alleged, the burden of proof is on appellant to show that the Commission has jurisdiction of his appeal.
2. Appellant has failed to carry his burden of proof.
3. The Commission does not have jurisdiction over this appeal.

OPINION

Timeliness computation is commenced from the effective date of the action appealed from or from the date appellant is notified of the action, whichever is later, section 230.44(3), Wis. Stats. Since the termination was effective in January, 1979, and the appeal was filed with the Commission in August, 1979, it is clearly untimely because not filed within 30 days from either of the dates set out in the statutes.

The timeliness finding is determinative with respect to Commission jurisdiction. The limited term employment status of appellant may, however, also preclude jurisdiction in this case, since the facts of this case do not appear to bring into operation ss. 230.44(1)(a), (b), or (d), Wis. Stats. Section 230.44(1)(c), Wis. Stats., on its face clearly does not apply to limited term employes.

ORDER

The appeal is hereby dismissed.

Dated Jan. 32, 1980

STATE PERSONNEL COMMISSION

Charlotte M. Higbee
Charlotte M. Higbee
Commissioner