

OFFICIAL

STATE OF WISCONSIN

PERSONNEL COMMISSION

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KENNETH KIENBAUM,

Appellant,

v.

President, UNIVERSITY OF  
WISCONSIN,

Respondent.

Case No. 79-246-PC

\* \* \* \* \*

DECISION  
AND  
ORDER

NATURE OF CASE

This appeal complains that management at UW-Whitewater has assigned certain duties to Building Maintenance Helper 2 (BMH 2) positions which are outside the BMH 2 class specifications. The respondent has objected to subject-matter jurisdiction. Following attempts at settlement the parties filed written arguments on the jurisdictional issue. The essential facts relating to jurisdiction are not in dispute. The following findings are made solely for the purpose of deciding respondent's objections.

FINDINGS OF FACT

1. The appeal letter dated September 6, 1979, complains of the assignment of work to certain BMH 2 positions at UW-Whitewater that allegedly is outside the scope of the class specifications for that classification.

2. The appeal letter was signed by Kenneth Kienbaum as Local 1131 Vice-President.

3. In the "Appellant's Brief in Opposition to Dismiss" the issue was stated to be: "Did the University of Wisconsin-Whitewater violate chapter 230.09 Wis. Stats., by changing the duties of employees designated as Building Maintenance Helpers and if so what is the proper remedy."

#### CONCLUSIONS OF LAW

1. There is no statutory provision which gives the Commission the authority to hear an appeal of this nature and, therefore, the Commission lacks subject-matter jurisdiction.

#### OPINION

The respondent has raised a number of jurisdictional objections and other defenses. It is not necessary for the Commission to consider all of these inasmuch as there is a very basic jurisdictional problem in that there is no statutory provision which gives the Commission the authority to consider the subject matter of this appeal.

The subject matter of this appeal clearly is the assignment of duties. The appellant argues that the Commission has jurisdiction pursuant to §§230.44(1)(b), and (d), Stats.

Section 230.44(1)(b), has to do with actions delegated by the Administrator to appointing authorities. Pursuant to §230.06(1)(b), the assignment of duties is a power and duty of the appointing authority. The Administrator is not vested with such power and accordingly cannot delegate actions with respect to such matters to appointing authorities. If the appellant were contesting a decision on the appropriate classification of the positions in question, that would provide a basis for

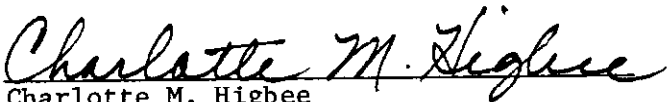
jurisdiction, but that clearly is not what this appeal is about.

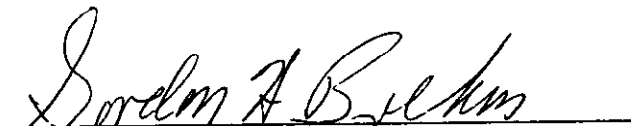
Section 230.44(1)(d), has to do with personnel actions after certification related to the hiring process in the classified service. The subject matter of this appeal does not fall into this category of transactions.

ORDER

This appeal is dismissed for lack of jurisdiction over the subject matter.

Dated: April 25, 1980. STATE PERSONNEL COMMISSION

  
Charlotte M. Higbee  
Commissioner

  
Gordon H. Brehm  
Commissioner

AJT:arl  
4/23/80

NOTE: Commissioner Murphy did not participate in the consideration or decision of this case.