

STATE OF WISCONSIN

PERSONNEL COMMISSION

 *
 RUTH BRESLER, *
 *
 Appellant, *
 *
 v. *
 *
 UNIVERSITY OF WISCONSIN & *
 DIVISION OF PERSONNEL, *
 *
 Respondents. *
 *
 Case No. 79-37-PC *
 *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal of an action related to the scope of competition for an examination which is before the Commission on respondents' objection to subject-matter jurisdiction on the ground that the appeal was not timely filed. The facts relating to this issue do not appear to be in dispute and are based on material in the file.

FINDINGS OF FACT

1. The appellant's appeal letter, dated January 30, 1979, and received by the Commission February 6, 1979, contains in part the following:

"The department of Purchasing at the University of Wisconsin-Milwaukee recently hired an employe from a state wide competitive test. However, I feel there was enough quantified employes in the presently employed to have the job filled by an internal promotion."

2. The position in question (classified civil service) was announced on an open competitive basis on October 16, 1978, with a closing date for applications of October 27, 1979.

3. The appellant took the exam on December 7, 1978, received her score on January 3, 1979, and found out on January 8, 1979, she had not been appointed to the position.

4. The appellant was aware at least as of December 7, 1978, that the examination was being given on an open competitive basis.

CONCLUSIONS OF LAW

1. This appeal was not timely filed under §230.44(3), Wis. Stats., (1977).

2. The Commission lacks jurisdiction over the subject matter of the appeal.

OPINION

Section 230.44(3), Stats., (1977) provides in part:

"Any appeal filed under this section may not be heard unless the appeal is filed within 30 days after the appellant is notified of the action, which ever is later...."

Ms. Bresler's appeal clearly concerned the decision to conduct the examination on an open competitive rather than on a promotional basis. In the statement that the appellant filed on July 7, 1979, with respect to this jurisdictional objection, she stated:

"Late in November 1978, Mrs. Bonville was on vacation overseas. It was during this time that the exam was posted as a competitive examination. I believe because I have always performed well in Purchasing and kept them advised of the fact that I was interested in advancement that this should first have been posted as a promotional exam.

I took the exam on Thursday December 7th, Nancy Horn also was sent down by Mrs. Bonville to take it at that time."

The effective date of this action was the date the exam was announced on an open competitive basis. Ms. Bresler had notice of this no later

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than December 7, 1978, and her appeal would have had to have been filed within 30 days of that date to have been timely.

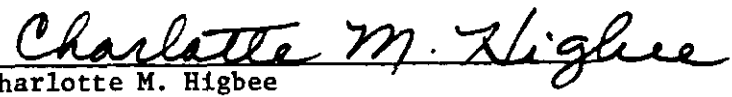
ORDER

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

Dated: August 30, 1979. STATE PERSONNEL COMMISSION



Joseph W. Wiley
Chairperson



Charlotte M. Higbee
Commissioner

AJT:arl
8/21/79