* * * * * * * * * * * * * * * * * * * DOROTHY JENSEN, * * Appellant, ٠v. INTERIM Administrator, DIVISION OF DECISION PERSONNEL, AND ORDER Respondent. Case No. 79-PC-CS-386 * * * * * * * * * * * * * * * * * *

At a prehearing conference held April 8, 1980, the respondent objected to the Commission's jurisdiction and the appellant's standing. In his letter brief in support dated August 13, 1980, the respondent presented, in part, the following arguments:

Facts

Prior to the implementation of the clerical survey, the Appellant's position was classified as Typist 2. Effective August 26, 1979, her position was reallocated to Typist as a result of the survey. On September 17, 1979, the appellant filed with the Personnel Commission an appeal from the reallocation.

Effective January 13, 1980, the Appellant's position was reclassified from Typist (PR 2-05) to Typist (Lead)(PR 2-06). The Appellant did not file an appeal from this personnel transaction.

Argument

It is Respondent's position that the Appellant is precluded from raising any classification other than Typist (Lead) in her appeal from the clerical survey reallocation. Her position was reclassified in January to Typist (Lead). She did not appeal from the reclassification. The Personnel Commission cannot hear an appeal from the reclassification action even if one were filed now inasmuch as it would be untimely. See Section 230.44(3), Wis. Stats.

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Since the Appellant did not file an appeal, two presumptions arise: one, that the decision was correct, and two, that the Appellant agreed with the decision. Therefore, at best, the Appellant may raise an issue from the reallocation that her position should be classified as either Typist (PR 2-05), or Typist (Lead) (PR 2-06), not Program Assistant 2, 3 or 4 (PR 2-07, 8 or 9).

Respondent does not argue that the appellant did not properly perfect her appeal of the original reallocation. In the Commission's opinion it does not follow that the appellant's failure to appeal a subsequent, apparently unilateral, reclassification would have the effect of precluding her from pursuing her original appeal with respect to classifications other than Typist (Lead).

Respondent also argues that:

Upon reclassification of her position to Typist (Lead) (PR 2-06), her pay rate was increased a step (\$0.173) under Section Pers 5.03(2)(c), W.A.C. However, if the Appellant's position had been reallocated to Typist (lead), there would have been no increase to her pay rate; that is, the Appellant's rate of pay would be at least \$0.173/hour less than her present rate and any overpayment as a result of the alleged incorrect reclassification would have to be recouped.

Since the Commission does not agree that appellant is restricted in her reallocation appeal to a claim to a Typist (Lead) classification, it does not follow that there is no effective remedy.

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ORDER

The respondent's objections made at the prehearing conference held April 8, 1980, and set forth in a letter dated August 13, 1980, are denied.

Dated Sept, 26, 1980

STATE PERSONNEL COMMISSION

Charlotte M. Higbee

Chairperson

Gordon H. Brei Commissioner

Donald R. Murphy Commissioner

AJT:mew 9/25/80

Parties:

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