

STATE OF WISCONSIN

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RALPH DOLL; RALPH DOLL &
DENNIS WANTA; RALPH DOLL
& DENNIS WANTA; DENNIS WANTA,
Appellants,

v.

Secretary, DEPARTMENT OF
ADMINISTRATION,
Respondent.

Case Nos. 80-20-PC, 79-260-PC,
79-261-PC and 79-341-PC

* * * * *

DECISION
AND
ORDER

These cases involve appeals of non-contractual grievances concerning alleged assignment of duties outside of classification. The respondent has objected to the Commission's jurisdiction over these cases. In each case, the Commission decided to defer a decision on jurisdiction until the Circuit Court rendered a ruling in review proceedings concerning Teggatz v. DHSS, No. 79-73-PC, a case where the Commission held that it lacked jurisdiction over such an appeal.

On January 8, 1982, the Winnebago County Circuit Court entered its decision in that proceeding, Teggatz v. State of Wisconsin (Personnel Commission), No. 80CV1092. In addition to holding it lacked jurisdiction over the petition for judicial review, the court further stated that the decision of the Commission should be affirmed on its merits, and that the Commission lacks jurisdiction over grievances relating to the assignment of job duties.

It seems apparent that when the Commission deferred action pending the results of the Teggatz appeal, it was not because that decision would be absolutely dispositive of these cases. Such a decision could, in the strict sense, only determine the rights of the parties to that proceeding. However, such a decision obviously can have an important effect as precedent. For example, if the court had reversed the Commission's determination that it lacked jurisdiction, obviously such action could have had the effect of severely undermining or obliterating the precedent established by the Commission's ruling in Teggatz, and the Commission might well have decided to reach a different conclusion in these cases.

The appellants argue in essence that the statement of the court that the decision of the Commission was correct on the merits should be disregarded because of the fact that it had first decided that it lacked jurisdiction over the petition for review.

The court's statement on the merits of the Commission's decision in Teggatz may be dictum, and unnecessary to its disposition of the petition. It does not follow that the Commission must ignore the court's pronouncement in its disposition of these cases. The Commission already has ruled in the Teggatz decision that it lacked jurisdiction over this type of appeal. The court not only did not reverse the Commission on the merits, it indicated that it believed that the Commission's decision was correct. Under these circumstances, there is no longer any reason for deferring further action on these appeals, and further, the Commission can ascertain no reason to depart from its approach to jurisdiction as set forth in Teggatz v. DHSS, 79-73-PC (12/13/79), and therefore these appeals should be dismissed for lack of subject matter jurisdiction.

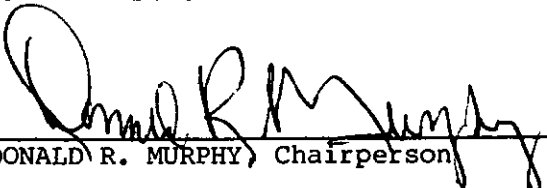
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ORDER

These appeals are dismissed for lack of subject matter jurisdiction.

Dated: March 4, 1982 STATE PERSONNEL COMMISSION.

AJT:jmf


DONALD R. MURPHY, Chairperson

Parties:

Ralph Doll
1010 E. Fitzsimmons Road
Oak Creek, WI 53154


LAURIE R. McCALLUM, Commissioner

Dennis Wanta
332 E. Oklahoma Avenue
Milwaukee, WI 53207


JAMES W. PHILLIPS, Commissioner

Kenneth Lindner, Secretary
DOA
P. O. Box 7864
Madison, WI 53707