

PERSONNEL COMMISSION

DECISION
AND
ORDER

This is an appeal of respondent's denial of benefits for injuries pursuant to §230.36, Wis. Stats. The parties agreed to submit the case for decision on the briefs of the parties since the facts are not in dispute. The dispute in this case is whether, on the facts presented by the parties, the appellant is entitled to receive hazardous employment injury benefits.

1. Appellant is employed in the classified civil service as an Administrative Assistant 3-Supervisor in the Management Support Services Unit of the Southern Wisconsin Center for the Developmentally Disabled.

2. On January 8, 1980, the director of the Southern Wisconsin Center notified Mr. Loeffler that, pursuant to §46.05(2), Wis. Stats., and for the purpose of enforcing Wis. Admin. Code Sec. HSS 60.01, he had been appointed with and had delegated to him police powers.

3. On March 12, 1980, Assistant Attorney General Andrew L. Somers, Jr., informed Mr. Loeffler, in Mr. Loeffler's capacity as supervisor of the secur-

ity staff, that his staff had arrest powers which they exercised in the performance of their duties as security officers, and that they were required to be trained and certified pursuant to §165.85 and §165.86, Wis. Stats.

4. Part of Mr. Loeffler's duties is the supervision of the security staff enforcing traffic, parking and plant security.

5. On or about April 10, 1980, Mr. Loeffler was approved by the Department of Justice for enrollment in the Wisconsin Law Enforcement Standard Board Training and Standards Program.

6. The respondent approved the training activity offered by the Department of Justice.

7. Mr. Loeffler subsequently attended a training session conducted by the MATC Police Training Program and injured himself while participating in a self-defense training class.

8. The appellant's application for hazardous employment benefits was denied by the respondent on or about November 24, 1980.

OPINION

Respondent concedes that appellant was injured as defined in §230.36(2), Wis. Stats. He contests characterizing appellant as an "employee" who was injured in the "performance of duties" as required by the statute. The respondent's argument appears to be based on the fact that appellant's position is classified as Administrative Assistant 3-Supervisor, rather than as a police or security officer. The appellant has nevertheless been delegated police powers, including the power to arrest, and was administered an oath

and was issued a badge in keeping with the delegation of powers. Based on the powers delegated, appellant was found eligible for and was accepted for enrollment in a training program for law enforcement officers. Section 230.36(1), Wis. Stats., does not indicate in its listing of employment categories whether these categories are meant to represent civil service classifications. Civil service classifications, including class titles, are subject to continual change and revision, see §230.09(2)(am), Stats. In the opinion of the Commission, the intent of §230.36, Stats., is to provide protection to State employees required to perform hazardous duties. The legislature has provided in §230.36(1), Stats., that any employee who is ordered to perform duties under §230.36(3), in place of or with a listed employee is covered, even though such an employee could very easily be performing the duties on a strictly temporary or spot basis. The Commission cannot accept the notion that another employee, who has regularly assigned police officer duties, but constituting less than 50% of his duties so that the position classification is not that of a police officer or related classification, would not be considered a "police officer" for the purpose of this statute.

While the Southern Wisconsin Center is not a mental health institution,¹ the basis of coverage is not the designation of the institution, but rather the fact that appellant was at the time of his injury a security officer who was injured while engaged in training exercises authorized by the appointing authority, as set forth in §230.36(3)(b)4, Wis. Stats.

¹ Compare §51.05 and §51.06, Wis. Stats.

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to Section 230.45(1)(d), Wis. Stats.

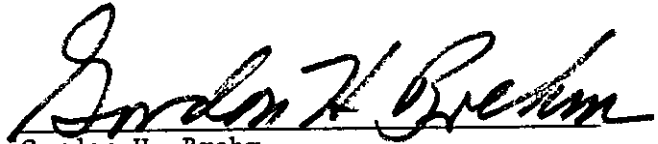
2. The respondent erred in denying respondent's application for hazardous employment benefits and the appellant is entitled to said benefits.

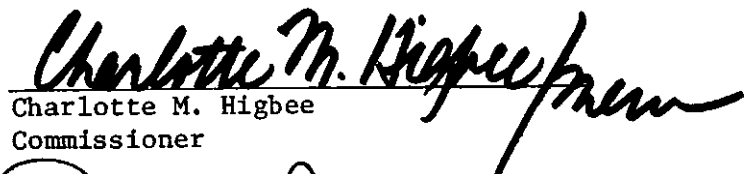
ORDER

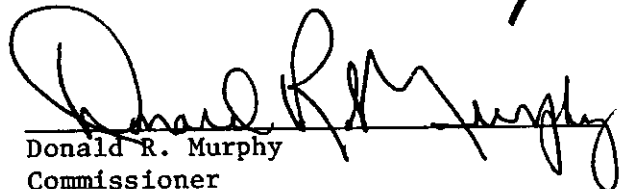
The respondent's denial of benefits to appellant under §230.36, Wis. Stats., is rejected and this matter is remanded for action in accordance with this decision.

Dated 27 July, 1981

STATE PERSONNEL COMMISSION


Gordon H. Brehm
Chairperson


Charlotte M. Higbee
Commissioner


Donald R. Murphy
Commissioner

AR:mew

Parties:

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