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 RICHARD LA PORTE, \*  
 \*  
 Appellant, \*  
 \*  
 v. \*  
 \*  
 Secretary, DEPARTMENT OF INDUSTRY, \*  
 LABOR AND HUMAN RELATIONS, \*  
 \*  
 Respondent. \*  
 \*  
 Case No. 81-153-PC \*  
 \*  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

NATURE OF THE CASE

This is an appeal from the DILHR's termination action. Three main issues have been raised by appellant:

1. The termination occurred without adequate cause or notice.
2. Respondent failed to consider appellant's requests for reclassification.
3. Respondent failed to give appellant's handicap adequate consideration when termination decisions were made. As a result, appellant alleges he was discriminated against.

At the prehearing conference, respondent agreed to submit objections as to the Commission's subject matter jurisdiction over the instant case, along with supporting arguments. Appellant agreed to submit a notarized complaint form. Furthermore, appellant was given 15 days to respond to any jurisdictional motion or argument filed by respondent.

OPINION

Appellant, Richard La Porte, was employed by DILHR as a Project Job Service Specialist I under the Targeted Jobs Tax Credit Program. This

position is classified as "non-permanent." In April, 1981, appellant was terminated. Respondent's termination notice indicated the cause of termination was due to a lack of state funds.

A, Termination Issue:

The Commission has subject matter jurisdiction in cases involving demotion, layoff, suspension or discharge, as per Wis. Stat. 230.44(1)(c). However, only cases involving employes with "permanent status" in class may be heard using this statute as a basis of subject matter jurisdiction.

"If an employe has permanent status in class, the employe may appeal, . . . , a discharge, if the appeal alleges that the decision was not based on just cause." Wis. Stat. 230.44(1)(c)

A determination must therefore be made as to whether appellant had permanent status as a project appointment. "Project Appointment" is defined by ss. 34.01(1) and 34.07(13m) Pers., Wis. Adm. Code, as an appointment to a project position under conditions of employment which do not provide for attainment of permanent status. Consequently, appellant, who was a Project Service Specialist I, did not have permanent status in this position and therefore cannot claim jurisdiction under s. 230.44(1)(c) Wis. Stat.

This conclusion is supported by two additional sources.

In Klopp v. UW, Case No. 79-33-PC, a limited term employe was terminated. The Commission stated s. 230.44(1)(c) Wis. Stat. only gave it subject matter jurisdiction over appeals of employes with permanent status in classification. The Commission further stated there was no statutory provision for appeal to the Commission of an LTE's termination.

Section 34.07(1) Pers. Wis. Adm. Code states project appointment employees have the same appeal and grievance rights as permanent unrepresented employees except that termination of the project appointment may not be appealed.

B. Reclassification Request

As the Commission stated in Oakley v. Commissioner of Securities, 78-66-PC, pleadings will be construed liberally and do not have to meet the standards applicable to judicial pleadings. However, to have standing, the appellant must be an "interested" party as evidenced by a colorable allegation of direct injury. Strickland v. Carballo and Knoll, Wis. Pers. Bd. No. 75-132.

On the facts as presented by the record, appellant only made informal inquiries as to possible reclassification, but never filed a formal request for reclassification. Furthermore, it is questionable what remedy would be available to the appellant at this point in time in light of his separation from state service before this appeal was filed.

C. Handicap Discrimination Complaint

The Personnel Commission has subject matter jurisdiction in cases involving discrimination complaints, as per s. 230.45(1)(b). However, a complaint meeting the criteria established by P.C. 4.02(1) must be filed.

On the facts as presented by the record, appellant has yet to file a notarized discrimination complaint pursuant to P.C. 4.02, despite having been given the opportunity to do so. The complainant therefore

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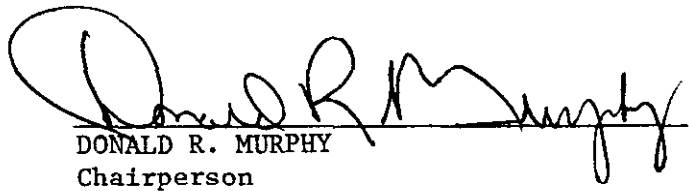
has failed to pursue this matter by filing a notarized complaint as  
required by the rules.

ORDER

This appeal is hereby dismissed.

Dated: October 30, 1981

STATE PERSONNEL COMMISSION

  
DONALD R. MURPHY  
Chairperson

  
CHARLOTTE M. HIGBEE  
Commissioner

Parties

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