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LINDA PULLEN-ALGEE,
 Appellant,
 v.
 Secretary, DEPARTMENT OF
 INDUSTRY, LABOR AND HUMAN
 RELATIONS,
 Respondent.
 Case No. 81-84-PC
 * * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This matter is before the Commission upon stipulated facts and exhibits. The following issue was agreed to by the parties:

Whether or not the decision of the administrator to extend the employment register to Job Service Specialist 3 was done in accordance with statutes and administrative rules.

The following findings are made on the stipulated record or otherwise appear to be undisputed.

FINDINGS OF FACT

1. The appellant took a Job Service Specialist 3 (JSS 3) exam some-time prior to July 26, 1978.
2. As a result of the examination, the appellant was placed on the JSS 3 register, which had a certification date of July 26, 1978.
3. On April 15, 1980, a new JSS 3 register was established.
4. On October 14, 1980, DILHR submitted a written request to the Division of Personnel to extend or reactivate the April 15th register until December 31, 1980. The request was granted and the register was extended.

5. On January 5, 1981, DILHR submitted a written request to the Division of Personnel to extend or reactivate the April 15th register until March 15, 1981. The request was granted and the register was reactivated.

6. The respondent used the reactivated register to hire Ms. Shelia Knox for a JSS 3 position at the Milwaukee WIN office.

7. The appellant was not on the JSS 3 register from which Ms. Knox was certified.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(a), Wis. Stats.

2. The appellant has the burden of proving that the respondent failed to comply with the requirements established by statute or administrative rule in extending the April 15, 1980 JSS 3 register.

3. The appellant has failed to meet that burden of proof.

4. The respondent's decision to extend the JSS 3 register was in accordance with the statutes and administrative rules.

OPINION

The only statutory provision that appears to be relevant to this case is §230.25(3), Wis. Stats., which provides in part:

The term of eligibility on original entrance and promotional registers is 6 months and thereafter the register expires but may be reactivated by the administrator for up to 3 years from the date of the establishment of the register. (Emphasis added).

This provision is essentially restated in § Pers 11.03, Wis. Adm. Code:

Term of eligibility on an employment register. (1)
OPEN COMPETITIVE OR PROMOTIONAL REGISTERS. Eligibility on a register continues for 6 months from the date the register was established or, on an integrated register, 6 months from the date the individual is placed on the register.

(2) REACTIVATION OF REGISTER. The administrator may reactivate a register up to 3 years from the date it was established. Names on the reactivated register may be integrated with those on a subsequently established register.

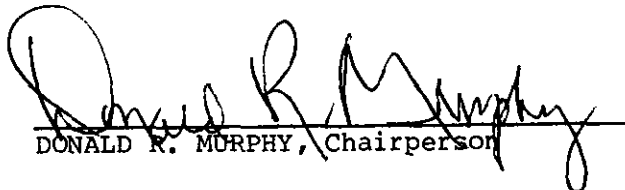
Nothing in the record indicates that the respondents failed to comply with either of these provisions. To the contrary, well over six months elapsed from the date of the register that included the appellant and the date the new register (including Ms. Knox) was established. The record also shows that respondent Division granted DILHR's requests to extend or reactivate the April 15th, 1980 register and that the appointment of Ms. Knox occurred within 3 years from the date the register was first established as required by law. Furthermore, there is nothing that suggests that respondent's implicit decision in April of 1980 not to reactivate the July, 1978 register but to conduct a new examination was improper.

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ORDER

The respondent's decision to extend or reactivate the Job Service Specialist 3 employment register is affirmed and this appeal is dismissed.

Dated: May 12, 1982 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

KMS:jmf


JAMES W. PHILLIPS, Commissioner

Parties:

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