

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*  
 DONALD G. RONNE,  
                     Appellant,  
 v.  
 President, UNIVERSITY OF  
 WISCONSIN,  
                     Respondent.  
 Case No. 82-160-PC  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(d), Wis. Stats., of a hiring decision.

FINDINGS OF FACT

1. In December of 1980, appellant resigned from his Building Maintenance Helper 2 position in the classified civil service at the University of Wisconsin Physical Plant.

2. Upon his resignation and for a period of three years thereafter, appellant was eligible for permissive reinstatement, i.e., for reinstatement at the discretion of the appointing authority.

3. In July of 1982, appellant applied for and was certified for a Building Maintenance Helper 2 position at the University of Wisconsin Hospitals. Another applicant was ultimately selected for the position.

4. At no time relevant to this appeal did appellant satisfy the criteria specified in §Pers. 16.03, Wis. Adm. Code, for mandatory restoration.

5. Respondent applied the same selection criteria to appellant's application for the Building Maintenance Helper 2 position at University of Wisconsin Hospitals as it applied to the other applicants for the position. The selection criteria were reasonable in relation to the type of position involved and were uniformly applied by respondent.

6. Respondent's decision not to hire appellant for the Building Maintenance Helper 2 position was neither illegal nor an abuse of discretion.

#### CONCLUSIONS OF LAW

1. This case is properly before the Commission pursuant to §230.44(1)(d), Wis. Stats., as an appeal of a hiring decision.

2. The appellant has the burden of proof to show that the hiring decision made by respondent was an illegal action or an abuse of discretion.

3. The appellant has failed to sustain his burden of proof.

4. Respondent's decision not to hire appellant was neither illegal nor an abuse of discretion.

#### OPINION

In December of 1980, the appellant resigned from the Building Maintenance Helper position he had held for six years at the University of Wisconsin Physical Plant. Upon his resignation and for a period of three years thereafter, appellant was eligible for reinstatement in accordance with the provisions of Ch. Pers. 16 of the Wisconsin Administrative Code. In July of 1982, after having failed to obtain permanent employment during the period of time since his resignation, appellant made application for and was certified for a Building Maintenance Helper 2 (BMH-2) position at

the University of Wisconsin Hospitals. He was interviewed for this position but another applicant was ultimately hired.

Although appellant's basis for alleging that respondent acted illegally when it selected another applicant for the BMH 2 position is not entirely clear from the record, it can reasonably be implied that appellant was of the opinion that his eligibility for reinstatement required mandatory restoration, not permissive reinstatement. In other words, appellant was of the opinion that the respondent was required to hire him for the BMH 2 position for which he applied. Such reasoning is inconsistent with the provisions of Ch. Pers. 16 of the Wisconsin Administrative Code. Appellant did not satisfy the criteria for mandatory restoration as specified in § Pers. 16.03, Wis. Adm. Code. Instead, appellant's status was clearly that contemplated by § Pers. 16.035(1), Wis. Adm. Code., i.e., an employe who has terminated from the classified service without misconduct or delinquency and who has reinstatement eligibility for a period of three years from the date of his resignation. In accordance with § Pers. 16.01(2), Wis. Adm. Code, the re-appointment of such a former employe who is "eligible" for reinstatement is permissive, i.e, is at the discretion of the appointing authority.

In the alternative, appellant alleges that respondent's selection of another applicant for the BMH 2 position for which appellant had applied was an abuse of discretion. This is clearly not supported by the record in this appeal. The same selection criteria were applied to appellant's application as were applied to the applications of the other persons certified for the position. The reasons respondent offered for not selecting appellant (inaccurate and unacceptable estimates of time needed

to complete certain cleaning jobs, only satisfactory attendance record in previous employment, and lack of job stability) and the reasons offered for hiring the successful applicant (accurate estimates of time needed to complete certain cleaning jobs, excellent attendance record in previous employment, excellent and stable employment record, and high degree of motivation) represent valid selection criteria for the position involved and accurately reflect the information made available to respondent in the course of the application and selection process. Appellant further alleges that he should have been hired for the position since he had more extensive cleaning experience than the successful applicant. It was reasonable, however, for respondent to apply criteria in addition to that of extent of previous cleaning experience in making the final hiring decision since the skills necessary for cleaning a hospital facility are distinguishable from the cleaning skills acquired by either the successful applicant or the appellant in their previous cleaning jobs and since future job performance is not solely a function of previous job experience. Since re-training would be necessary and since factors such as attendance would be important, it was reasonable for respondent not to base its hiring decision solely on the extent of previous cleaning experience of the applicants but to consider other criteria as well. Respondent's selection criteria were reasonable in view of the position involved and the ultimate hiring decision reflects the uniform application of these selection criteria by respondent.

ORDER

The decision by respondent not to hire appellant was neither illegal nor an abuse of discretion and this appeal is dismissed.

Dated: November 11, 1982 STATE PERSONNEL COMMISSION

  
DONALD R. MURPHY, Chairperson

  
LAURIE R. McCALLUM, Commissioner

  
JAMES W. PHILLIPS, Commissioner

LRM:jmf

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