

STATE OF WISCONSIN

PERSONNEL COMMISSION

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NORMA J. CASSITY,

Appellant,

v.

Director, KENOSHA COUNTY
SOCIAL SERVICES, and
Secretary, DEPARTMENT OF
HEALTH AND SOCIAL SERVICES,

Respondent.

Case No. 82-195-PC

* * * * *

DECISION
AND
ORDER

The appellant has asked that the Commission review the decision of the Kenosha County Department of Social Services regarding the filling of a new position of Income Maintenance Supervisor within that department .

The only possible authority for the Commission to hear this appeal is under §230.45(1)(e), Wis. Stats., which provides that the Commission shall:

(e) Hear appeals, when authorized under County merit system rules under §49.50, from any interest party.

Pursuant to §§49.50(2) and (5), Wis. Stats., the Department of Health and Social Services has adopted the following administrative rule regarding the review of county merit system employes' personnel actions:

In the event of demotion or separation, permanent employes shall be provided with the right to appeal through an impartial process that may be recommendatory or enforceable on the employer. Appeals of alleged discrimination of an applicant or employe shall also be provided through an impartial process that shall result in timely, enforceable decisions. § HSS 5.07(3), W.A.C.

The above rule only provides for appeals from demotion and separation decisions. It fails to mention appeals from hiring decisions. On that basis alone, the Commission must conclude that it lacks the authority to

hear the instant appeal. In addition, the Department of Health and Social Services has applied this rule so that appeals from actions delegated to the county under §49.50(5), Wis. Stats., are to be handled under the county's own appeal procedure. Only if there has been no delegation of authority to the county will the state provide its own review, in the form of an administrative hearing before the department's own Office of Administrative Hearings.

ORDER

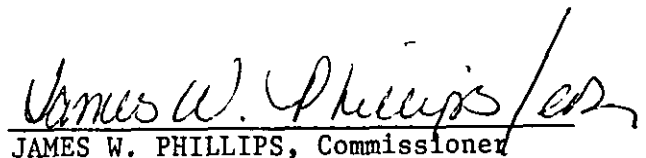
This matter is dismissed due to lack of subject matter jurisdiction.

November 11, 1982 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner

KMS:jmf


JAMES W. PHILLIPS, Commissioner

Parties:

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