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 *
 JANE SCHMIT, *
 *
 Appellant, *
 *
 v. *
 *
 Secretary, DEPARTMENT OF *
 HEALTH & SOCIAL SERVICES, *
 *
 Respondent. *
 *
 Case No. 82-49-PC *
 *
 * * * * *

DECISION
AND
ORDER

In a discrimination complaint filed with the Commission on February 17, 1982, the appellant also sought review under s.230.44, Wis. Stats., of a suspension decision. The Commission advised the appellant that her appeal raised a jurisdictional problem:

Pursuant to s.111.93(3), Wis. Stats., the provisions of the labor agreement supersede the statutory appeal procedures for these types of appeals. Because it would appear that you are within a collective bargaining unit, the Commission apparently lacks the authority to hear your appeal.

Appellant was invited to respond to the Commission's letter. In her letter of response, the appellant indicated that her union had refused to support her grievance regarding the suspension in arbitration.

Pursuant to s.111.93(3), Wis. Stats., the existence of a collective bargaining agreement acts to supersede the civil service statutes relating to wages, hours and conditions of employment. The appellant is precluded from appealing a suspension decision because she is within a collective bargaining unit that has a contract in effect. Welch v. DHSS, 81-272-PC (10/30/81).

The letters submitted by the appellant also include allegations that other employes at the institution made derogatory or discriminatory statements regarding the appellant. Use of abusive language does not constitute a personnel action appealable to the Commission under s.230.44, Wis. Stats. Fox v. DNR, Case No. 81-381-PC (2/9/82).

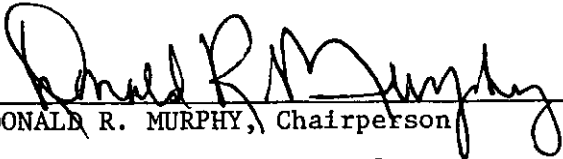
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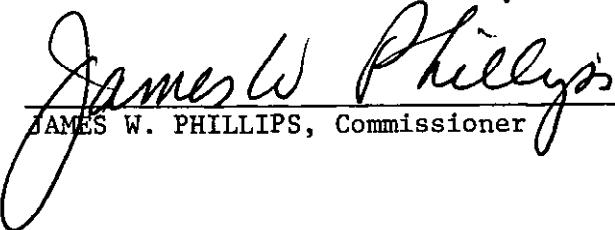
This appeal is dismissed due to lack of subject matter jurisdiction.

Dated: April 2, 1982

STATE PERSONNEL COMMISSION



DONALD R. MURPHY, Chairperson



JAMES W. PHILLIPS, Commissioner

KMS:ers

Parties

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