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MICHAEL CONLEY,
 Appellant,

v.

Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 and Administrator, DIVISION
 OF PERSONNEL,
 Respondents.

Case No. 83-0075-PC

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INTERIM
 DECISION
 AND
 ORDER

This matter is before the Commission on the objection of DHSS to subject matter jurisdiction. Both parties have filed briefs.

The appeal letter in this case was filed with the Commission on May 24, 1983. This rather lengthy letter begins by stating: "This letter is to notify your department of my disagreement and appeal of the date that has been established for my acquiring Officer 2 status."

Attached to the letter is a "reclassification request/report" form which provides notice of the reclassification of the appellant's position from Officer 1 to Officer 2 with an effective date of May 1, 1983. The notice was signed by the appointing authority, acting on a delegated basis pursuant to §230.05(2)(a), Stats., on April 25, 1983.

On its face, this appeal seems to be timely under §230.44(3), Stats., since it was filed within 30 days of both the effective date (May 1, 1983) and the earliest possible date of notification thereof (April 25, 1983).

The respondent contends that this appeal was untimely because:

"By letter dated April 8, 1981 (attached to the appeal letter) Mr. Conley was notified that he would not be reclassified until January 10, 1982. That letter makes it quite clear what criteria the personnel office was using for denying his reclass. If he felt there was something wrong with this, he should have appealed it at that time."

The letter referred to did not inform the appellant that his position would be reclassified effective January 10, 1982; it merely stated that he would have the required two year minimum period as an Officer 1 as of that date. In any event the §230.44(3) 30 day period of limitations begins to run from the effective date or the date of notice, whichever is later. It seems clear that the actual effective date, which was appealed within 30 days, was May 1, 1983.

The respondent also characterizes this appeal as an attempt to enforce a stipulation, a proceeding over which the Commission lacks jurisdiction.

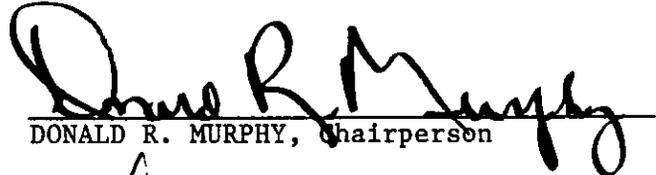
There is a jurisdictional basis for this appeal in the reclassification action taken by DHSS. This is appealable as a delegated action pursuant to §230.44(1)(b), Stats. That the appellant may rely in part, in support of his contention that the respondents erred in determining the effective date of his reclassification, on a stipulation reached in another case, does not make this ipso facto an enforcement proceeding.

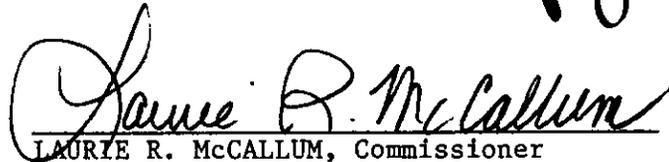
The Commission does wish to point out, in light of certain comments and certain of the relief sought as set forth in the appeal letter, that its jurisdiction and remedial authority is limited to that of an appeal, pursuant to §230.44(1)(b), Stats., of the decision reclassifying the appellant's position from Officer 1 to Officer 2 as set forth in the reclassification request/report form attached to the appeal letter.

ORDER

The respondent's objection to subject matter jurisdiction is overruled.

Dated: September 28, 1983 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner


DENNIS P. MCGILLIGAN, Commissioner

AJT:ers

Parties:

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*Pursuant to the provisions of 1983 Wisconsin Act 27, published on July 1, 1983, the authority previously held by the Administrator, Division of Personnel over classification matters is now held by the Secretary, Department of Employment Relations.