

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 D. L. HARPSTER *
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 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondent. *
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 Case No. 84-0121-PC *
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DECISION
 AND
 ORDER

This appeal arises from the reallocation of the appellant's position. A prehearing conference was held on August 21, 1984 and the conference report includes the following statement:

The sole issue raised by the appellant is whether the Ranger 3 classification (to which he was reallocated) is more appropriately within the Blue Collar and Non-Building Trades Bargaining Unit rather than the Security and Public Safety Bargaining Unit. Respondent objected on jurisdictional grounds arguing that the Commission lacks authority to review bargaining unit decisions.

The parties waived the opportunity to file briefs on the jurisdictional question.

The Commission's authority over personnel matters is derived from the language of §§230.44 and 45, Stats.

The decision to place a certain classification within one bargaining unit rather than another is not a decision by the Administrator of the Division of Merit Recruitment and Selection, §230.44(1)(a), Stats., a disciplinary decision by an appointing authority, §230.44(1)(c), Stats., or a post-certification action related to hire, §230.44(1)(d), Stats. Because this matter was not identified as a grievance filed under the non-

contractual grievance procedure, §230.45(1)(c), Stats., as a complaint of discrimination, §230.45(1)(b), Stats., or as one of the other types of complaints (whistleblower, occupational safety and health, abuse to elder person) contemplated elsewhere within §230.45(1), Stats., the only possible basis for this appeal would be from a decision of the Secretary of the Department of Employment Relations. Pursuant to §230.44(1)(b), Stats. (1983-84), the Commission may hear an:

[a]ppeal of a personnel decision under §230.09(2)(a) or (d) or 230.13 made by the secretary or by an appointing authority under authority delegated by the secretary under §230.04(1m).

Under §230.09(2)(a), Stats., the secretary has the authority to allocate, reclassify and reallocate positions within the classified service. Under §230.09(2)(d), Stats., the secretary must decide, after reclassifying or reallocating a position, to either regrade the incumbent or to open the position for competition. The reference to §230.13, Stats., is to the secretary's responsibility for maintaining the confidentiality of personnel records.

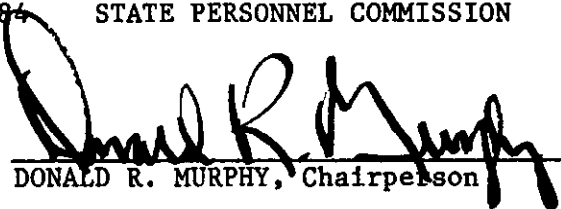
Therefore, a listing of the decisions of the secretary which may be appealed to the Commission does not include a decision to assign classifications to bargaining units. In the absence of any statutory authority to review the instant appeal, it must be dismissed.

The appellant may wish to note that pursuant to §111.81(1) and (3), Stats., the Wisconsin Employment Relations Commission is apparently responsible for assigning employes of the state to the various collective bargaining units that are identified according to occupational groups. If the appellant decides to pursue his request to remain in the Security and Public Safety Bargaining Unit, he may contact the WERC for additional information regarding applicable procedures.

ORDER

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

Dated: August 31, 1984 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner

KMS:jab
ORDER

Parties

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