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 *
 DAVID WING, *
 *
 Appellant, *
 *
 v. *
 *
 President, UNIVERSITY OF *
 WISCONSIN SYSTEM (Stout) *
 *
 Respondent. *
 *
 Case No. 85-0007-PC *
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 * * * * *

INTERIM
 DECISION
 AND
 ORDER

This appeal of a noncontractual grievance is before the Commission on respondent's objection to subject matter jurisdiction. Both parties have submitted written arguments.

Based on the Commission's examination of the body of the grievance, and the parties' characterization of the grievance in their briefs, it appears that the main subject of the grievance is the appellant's contention that the respondent has refused to allow him access to certain information which he feels he needs to adequately perform his work. Additionally, the appellant argues that the respondent violated chapter ER 46, Wis. Adm. Code, in its processing of the grievance, by refusing to allow him to tape record the first step meeting.

Section ER 46.03(2)(j), Wis. Adm. Code, provides that "An employe may not use this chapter to grieve... [a] condition of employment which is a right of the employer as defined in s.ER 46.04." Section ER 46.04 provides in part as follows:

Management rights. (1) Nothing in this chapter is intended to interfere with the sole right of the employer to carry out its statutory mandate and goals.

- (2) For the purpose of this chapter, the management rights of the employer include, but are not limited to, the following:
- (a) Utilizing personnel, methods and means to carry out the statutory mandates and goals of the agency.

* * *

- (c) Managing and directing the employes of the agency....

A determination by management concerning the information to be made available to Mr. Wing for the performance of his duties clearly falls within the aforesaid definition of management rights and accordingly is excluded from coverage by the grievance procedure.

With respect to the alleged violation of Mr. Wing's procedural rights under the grievance procedure, this is not a matter of management rights, and Mr. Wing has alleged a transgression of Chapter ER 46, Wis. Adm. Code, as required for Commission jurisdiction under §ER 46.07(1), Wis. Adm. Code.

ORDER

This appeal, with the exception of that part which alleges the appellant's rights were violated by respondent's refusal to permit him to tape record the step one meeting, is dismissed for lack of subject matter jurisdiction.

Dated: May 22, 1985 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner

AJT:jmf
ID3/1

Note: Laurie R. McCallum, Commissioner, did not participate in this decision.

Parties:

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