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 \*  
 STEPHAN J. MORKIN, \*  
 \*  
                   Complainant, \*  
 \*  
 v. \*  
 \*  
 Chancellor, UNIVERSITY OF \*  
 WISCONSIN - MADISON, \*  
 \*  
                   Respondent. \*  
 \*  
 Case No. 85-0084-PC-ER \*  
 \*  
 \* \* \* \* \*

DECISION  
AND  
ORDER

This matter is before the Commission on respondent's motion to dismiss. Both parties have been provided an opportunity to file briefs.

In completing the "Charge of Discrimination" form utilized by the Commission, complainant listed "nepotism" as the basis for his charge and did not indicate any other basis, e.g., race, sex, age or creed. Complainant described the details of his allegation as follows:

December 1984

1. Ms. Gaulke hired her niece Diane Wolpert.
2. Mr. Brian Sprang was hired by Robert Bender after Mr. Bender discussed the possibility of impropriety with Donald Sprang, the Personnel Director. Both hirings were Limited Term Employees.

I believe the "class" of individuals who had passed the civil service exam for BMH IIs was discriminated against.

Respondent moved to dismiss, arguing that discrimination based on nepotism is not prohibited under the Fair Employment Act and that complainant lacked standing because he had suffered no injury in fact.

Nepotism is defined in Webster's New Collegiate Dictionary as "favoritism shown to a relative (as by giving an appointive job) on a basis of relationship." The Commission's authority to process complaints of discrimination is founded upon §230.45(1)(b), Stats., and Subch. II, Ch. 111, Stats, the Fair Employment Act. In §111.321, Stats., the prohibited bases of discrimination covered by the Fair Employment Act are "age, race, creed, color, handicap, marital status, sex, national origin, ancestry, arrest record or conviction record". "Nepotism" is not one of the basis of discrimination prohibited by the Fair Employment Act.

It is implicit from various documents submitted by the complainant that he is already employed by the UW physical plant and, therefore, he was not a candidate for either of the two positions that he feels were improperly filled. Respondent argues that complainant suffered no injury in fact and, therefore, lacks standing to pursue this matter. In the complaint, complainant states that he believes "the 'class' of individuals who had passed the civil service exam for BMH IIs was discriminated against". There is no contention and no indication from the materials in the Commission's file that groups specifically protected by the Fair Employment Act suffered a disparate impact from the respondent's actions. For example, nothing suggests that the group of BMH II candidates was entirely female. Because the complainant has failed to equate the "class" he seeks to represent with any group that is protected by the Fair Employment Act, the Commission does not reach respondent's argument based on lack of standing.

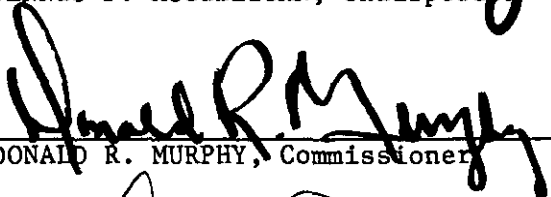
ORDER

The respondent's motion is granted and this complaint is dismissed for lack of subject matter jurisdiction.

Dated: August 1, 1985

STATE PERSONNEL COMMISSION

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

  
LAURIE R. McCALLUM, Commissioner

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Parties

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