

tion to restore her to a position as a Nurse Clinician III or to any other classification for which she was eligible. However, in the unlikely event that she does not prevail on the issue that she had restoration rights, she also contends that she had reinstatement rights to any Nurse Clinician III position, or to any other classification for which she was eligible, at the DHSS, or the Department of Corrections, or both, and that those agencies acted illegally in refusing to reinstate her.

* * *

In this case, there has been no dispute that the WRC did, in fact, have a vacant nurse clinician position at the time Dupuis sought to return to the WRC. However, Dupuis' restoration rights theoretically went beyond the specific institution of the WRC; until the facts are presented at hearing, it is premature to excessively limit the statement of the issue.

In support of its statement of the issue, respondent contends as follows:

As was indicated at the time of the prehearing conference, the Appellant was only considered for reinstatement at the Wisconsin Resource Center since that is where she inquired regarding reemployment.

In the Commission's opinion, it is inappropriate to frame the issue in a way that might in effect resolve the contentions appellant is seeking to raise in advance of the hearing and before the parties have an opportunity to present evidence¹. In so concluding, the commission is expressing no opinion on whether appellant had any rights that went beyond WRC, or whether any request or inquiry regarding reinstatement might be, or should have been interpreted by respondent as, running to other positions outside WRC. Rather, the decision to utilize appellant's statement of the issue is based on the intent of not prematurely curtailing any of appellant's theories that underlie her appeal.


¹The conference report, dated April 29, 1991, does not reflect any indication that WRC was the only place where appellant inquired regarding reinstatement.

ORDER

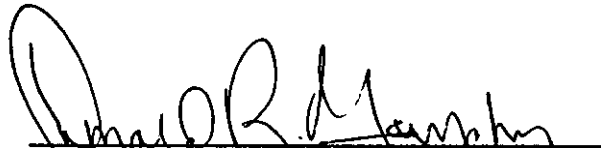
The following issue is established for hearing:

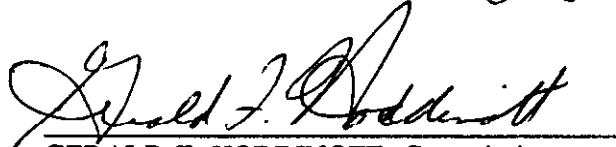
Whether appellant was wrongfully denied her right to
restoration and/or reinstatement.

Dated: July 25, 1991 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

AJT/gdt/2


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner