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CHARLES J. LOOMIS,
 Appellant,

v

President, UNIVERSITY OF
 WISCONSIN-SYSTEM,
 Respondent.

Case No. 92-0035-PC

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DECISION
 AND
 ORDER

This matter is before the Commission at the fourth step in the non-contractual grievance process. The respondent has raised a jurisdictional objection and the parties have filed briefs. The underlying facts do not appear to be in dispute.

FINDINGS OF FACT

1. Since no later than August of 1989, the appellant has been employed as a Maintenance Supervisor 1 in the Physical Plant at the University of Wisconsin Center-Washington County.
2. On February 11, 1992, the appellant filed a fourth step grievance with the Commission in which the appellant stated:

I am presently a (Non-Rep) Maintenance Supervisor 1 at U.W W.C One of the additional responsibilities of this position require me to carry a pager and be on call 24 hrs. a day 365 days a year. This means that I can not leave the signal range of the pager, and if I can not get ahold of the Maintenance Mechanic for an emergency, I must report to work within one hour.

The compensation pay plan entitles me to compensation for these responsibilities, yet I am denied them by the Business Manager here. (See attached time sheets.)

Yet, when the Maintenance Mechanic is assigned the pager due to my absence, he receives "stanby [sic] pay," under Article XIII, Section 19 (13/9/1) AFSME labor agreement.

The appellant requested the following relief:

It seems highly unethical and inequitable for a Maintenance Supervisor to receive less compensation than a classified staff. These are additional responsibilities which are not compensated for by salary, that's why I assume they are provided for in the pay plan. I request that I be compensated for these added duties either in the form of standby pay or comp. time.

CONCLUSION OF LAW

The Commission lacks jurisdiction over this matter.

OPINION

The appellant seeks to grieve the respondent's action of not paying him for the time he is on standby status.

The Commission's jurisdiction over non-contractual grievances is based on §230.45(1)(c), Stats., which provides that the Commission shall "Serve as final step arbiter in the state employe grievance procedure established under s. 230.04(14)." According to §230.04(14), Stats., the Secretary of the Department of Employment Relations "shall establish, by rule, the scope and minimum requirements of a state employe grievance procedure relating to conditions of employment."

The Secretary of DER has established the scope of the grievance procedure in §ER 46.03, Wis. Adm. Code:

(1) Under this chapter, an employe may grieve issues which affect his or her conditions of employment, including any matter on which the employe alleges that coercion or retaliation has been practiced against the employe except as provided in sub. (2)

(2) An employe may not use this chapter to grieve:

* * *

(k) Any matter related to wages, hours of work, and fringe benefits.

The appellant's grievance clearly relates to the hours he is required to serve in stand-by status and the fact that he is not paid while in that status. Therefore, the topic of this grievance falls within the scope of §ER 46.03(2)(k) and must be dismissed for lack of jurisdiction.

In his written arguments, the appellant also states that the respondent's failure to have mentioned during his initial job interview that he would be required to carry a pager and be on stand-by status was "in the nature of a breach of contract." Appellant states that he was told two months after he had started in the job that he would be required to carry the pager and be on stand-by status. To the extent the appellant is seeking to file an appeal under §230.44(1)(d), Stats., it fails to meet the time requirements established in §230.44(3).

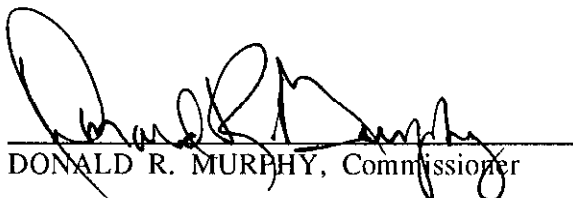
ORDER

This matter is dismissed for lack of subject matter jurisdiction.

Dated April 1, 1992 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

KMS:kms
K.D:temp-4/92 Loomis


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

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