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WILLIAM C. GOEHRING,

Appellant,

v.

Secretary, DEPARTMENT OF
HEALTH AND SOCIAL SERVICES,

Respondent.

Case No. 92-0735-PC

* * * * *

RULING
ON
MOTION

This matter is before the Commission on the appellant's request that the Department of Employment Relations (DER) and the Division of Merit Recruitment and Selection (DMRS) be added as respondents.

This appeal arises from the decision not to hire the appellant for the position of State Quality Control Supervisor in the Department of Health and Social Services, Division of Economic Support, Bureau of Economic Assistance. In a ruling dated July 30, 1993, the Commission denied appellant's motion to compel discovery of certain materials which were found to be under the "separate control of the Division of Merit Recruitment and Selection." The motion to compel was directed at DHSS. In its ruling, the Commission recited appellant's theory that DHSS had engaged in preselection:

My claim of preselect [sic] involves a series of events which include but is not limited to the achievement history questionnaire, the interview process and other events prior to the interview. The achievement history questionnaires are an important link in the process I shall prove.

In a footnote to the ruling, the Commission noted the following:

The appellant did request the documents directly from DER but the request was denied, both as a discovery request and as an open records request. The denial letter states that the Division of Merit Recruitment and Selection, DER, is not a named party so is not covered by the rules of discovery, and that the documents are "closed records according to §§230.13, Stats., and ER-Pers 6.08(2), Wis. Adm. Code." If DMRS were to be added as a party, it would be

subject to discovery. Here, the appellant has not requested that DMRS be made a party. (Emphasis added)

In a letter to the Commission dated August 10, 1993, appellant requested that both DER and DMRS be added as parties to his appeal: "The obvious reason for this being that it would appear they are the custodian of the documents for which discovery is sought." DMRS and DER objected to the request, contending that the appeal related to a selection decision made by the appointing authority, DHSS, rather than a decision by DMRS appealable under §230.44(1)(a), or a decision of DER appealable under §230.44(1)(b).

In his response, appellant reiterated that the sole reason he was seeking to add DMRS and DER as parties was to obtain discovery:

It should be fairly clear that I am not specifically appealing an action of DER or DMRS, rather I believe that preselect took place and there is evidence to be had in the documents I seek, the AHQ's and benchmarks.

The appellant is not entitled to add parties to a case simply for the purpose of being able to then obtain discovery more readily from them.¹ When the Commission originally set DHSS as the respondent in this matter, the appeal was understood to relate to the decision not to select him for a vacancy. In materials which were referenced in its July 30th ruling, the appellant made comments which might be interpreted as alleging that DMRS carried out the examination process as part of a larger preselection scheme.² However, in his subsequent submissions, the appellant has very clearly indicated that he is not raising such an allegation. Therefore, the only decision which is the subject of the appeal is the non-selection decision. That decision was made by DHSS, and not by either DMRS or DER.

¹The Commission notes that certain forms of discovery from non-parties is permitted under ch. 804, Stats.

²This would be comparable to allegations raised in Allen v. DHSS & DMRS, 87-0148-PC, 2/12/88. There, the appellant alleged that the examination process "facilitated the certification and ultimate appointment of an allegedly pre-selected candidate."

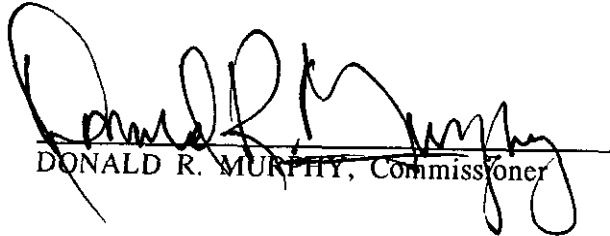
ORDER

Appellant's motion to add DMRS and DER as parties to this matter is denied.

Dated: October 20, 1993 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

KMS:kms


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner