

STATE OF WISCONSIN

PERSONNEL COMMISSION

**ANGELLA ELLIS,**  
*Appellant,*

v.

**Superintendent, UNIVERSITY OF  
WISCONSIN HOSPITALS AND CLINICS  
AUTHORITY,**  
*Respondent.*

RULING  
ON  
MOTION  
TO DISMISS

Case No. 98-0052-PC

This matter is before the Commission on the respondent's motion to dismiss the appeal for lack of subject matter jurisdiction and as untimely filed. The parties have submitted written arguments and the following findings are made for the purpose of this ruling.

#### FINDINGS OF FACT

1. Appellant, a Registered Nurse, began employment with respondent on October 6, 1997. She worked in a 90% position on the surgical floor.
2. Appellant became ill and was hospitalized during the first week of February of 1998.
3. On or about February 17, 1998, appellant notified respondent that she was accepting a transfer or promotion to a Nursing Supervisor 2 position at the Central Wisconsin Center. Central Wisconsin Center is a separate facility within the Department of Health and Family Services and is not operated by respondent.
4. Appellant contends that she relied on information provided by respondent when she chose the type of leave for her February absence, and that respondent ultimately did not transfer accumulated leave when she began employment at Central Wisconsin Center:

I am contending that the 54.7 hours deducted from my final paycheck does not reflect the fact that I was first of all misinformed by the payroll office at the hospital that I should use the personal holiday and legal holiday time that I had earned for 1997 and 1998 or lose them; and my sick leave balance should have been paid out as I was hospitalized during the first week of February, 1998. However the sick leave balance was kept by the hospital. Why?

5. Appellant filed her appeal with the Personnel Commission on May 22, 1998.

6. During a telephone conversation with a representative of the Commission on May 26<sup>th</sup>, the appellant stated she wished to have her letter considered an appeal of actions taken by the University of Wisconsin Hospitals and Clinics Authority.

#### CONCLUSION OF LAW

The Personnel Commission lacks subject matter jurisdiction over this appeal.

#### OPINION

The Commission's statutory authority is set forth in §§230.44 and .45, Wis. Stats. The Commission is granted authority to hear appeals from actions taken by the University of Wisconsin Hospitals and Clinics Authority, pursuant to §230.44(1)(g), only when:

2. The personnel decision is a demotion, layoff, suspension, discharge or reduction in base pay and the appeal alleges that the decision was not for just cause.

The actions complained of here relate to certain leave advice given to the appellant and to the leave credited to appellant at the time of her transfer/promotion to Central Wisconsin Center. These actions are not included in the very specific list of personnel actions found in §230.44(1)(g)2.

The Commission also notes that the appeal was filed on May 22, 1998, well after the 30 day time limit specified in §230.44(3).


ORDER

Respondent's motion is granted and this matter is dismissed for lack of subject matter jurisdiction.

Dated: August 12, 1998. STATE PERSONNEL COMMISSION

KMS:980052Arul1

  
LAURIE R. McCALLUM, Chairperson

  
DONALD R. MURPHY, Commissioner

  
JUDY M. ROGERS, Commissioner

Parties:

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Superintendent, UWHCA  
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NOTICE

OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW  
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

**Petition for Rehearing.** Any person aggrieved by a final order (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

**Petition for Judicial Review.** Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and

filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)
2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.

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