

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LINYING WU, Appellant,

vs.

STATE OF WISCONSIN, OFFICE OF STATE EMPLOYMENT RELATIONS, Respondent.

Case ID: 848
No. 70871
PA(der)-272

DECISION NO. 33332-A

LINYING WU, Appellant,

vs.

UNIVERSITY OF WISCONSIN – MADISON, Respondent.

Case ID: 23
No. 70901
PA(der)-274

DECISION NO. 33344-A

Appearances:

Linying Wu, 527 D’Onofrio Drive #5, Madison, Wisconsin, appearing on her own behalf.

William H. Ramsey, Department of Administration, 101 East Wilson Street, 10th Floor, Post Office Box 7864, Madison, Wisconsin, appearing on behalf of Respondent State of Wisconsin, and Sierra Beckles, Administrative Legal Services, 361 Bascom Hall, 500 Lincoln Drive, Madison, Wisconsin, appearing on behalf of Respondent University of Wisconsin – Madison.

ORDER GRANTING IN PART AND DENYING IN PART MOTIONS TO DISMISS

Appellant Linying Wu has filed two appeals with the Wisconsin Employment Relations Commission.

Her first appeal contends that the Office of State Employment Relations (“OSER,” a former state agency now absorbed within the Department of Administration as its Division of Personnel Management or “DPM”) did not properly reallocate her position at the University of Wisconsin – Madison (“UW – Madison”) during its Library Services Assistant (“LSA”) survey. Wu was formerly a LSA – Advanced / Lead and believes she should have been reallocated to a “Professional Librarian” position instead of a LSA – Advanced position.

Wu’s second appeal disputes UW – Madison’s decision to not reclassify her position as a “Professional Classified (or Academic) Librarian.” The appeals were informally consolidated.¹

Both OSER and UW – Madison filed motions to dismiss the appeals for lack of jurisdiction.

We read Wu’s appeals broadly and in the light most favorable to her when confronted with a motion to dismiss. From the filings related to the motions, we learned the following information relevant to the pending motions to dismiss Wu’s appeals: (1) OSER entered into agreements and / or understandings with UW – Madison regarding the latter’s appointments of individuals to its unclassified service; (2) UW – Madison has the ability to appoint employees to the unclassified service; (3) OSER developed the classified position of “Librarian” to be used throughout state service; (4) the UW – Madison appoints individuals to the titles of “Academic Librarian” and “Special Librarian” in its unclassified service; and (5) UW - Madison has classified service employees assigned to the position and classification of “Librarian.”

Pursuant to §§ 230.44(1)(a) and (b), Stats., the Commission has jurisdiction over appeals from the decisions of OSER (now DPM) and of entities (such as UW – Madison) to whom the head of OSER / DPM has delegated authority regarding the reallocation and reclassification of positions in the classified service. The Commission does not have jurisdiction over matters related to the appointment of individuals to positions within an unclassified service.

To the extent that Wu seeks to have UW – Madison reclassify her to the unclassified position of “Academic Librarian” at the UW – Madison, the Commission lacks jurisdiction over such appeal. The decision to appoint an individual to an unclassified position, such as “Academic Librarian,” is outside the scope of the Commission’s jurisdiction.

¹ Karen Rosneck filed similar reallocation and reclassification claims against OSER and UW – Madison, respectively.

To the extent Wu seeks to be reallocated and / or reclassified to the classified service position of “Librarian” at the UW – Madison, the Commission has jurisdiction over such appeal.

ORDER

The motions to dismiss are granted as to that portion of Wu’s appeals against OSER / DPM and UW – Madison that seeks reallocation or reclassification to a position in the unclassified service such as “Academic Librarian.

The motions to dismiss are denied as to that portion of Wu’s appeals against OSER / DPM and UW – Madison that seeks reallocation or reclassification to a position in the classified service such as “Librarian.”

Signed at the City of Madison, Wisconsin, this 21st day of December 2015.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner