

STATE OF WISCONSIN

BOARD OF PERSONNEL

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CARL RADY,

**

OFFICIAL

Appellant,

**

vs.

**

ORDER

NORMAN CLAPP, SECRETARY
DEPARTMENT OF TRANSPORTATION,

**

**

#73-46 Respondent.

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The Board having entered its Findings of Fact and Conclusions of Law in this matter, hereby makes and files the following Order:

1. That the appellant's appeal from the disciplinary action, effective September 15, 1972, suspending him without pay for one day is untimely and the same be and the same is hereby ordered summarily dismissed on its merits and with prejudice for lack of statutory jurisdiction to hear the matter herein referred.

Dated at Madison, Wisconsin this 24th day of May, 1973.

STATE PERSONNEL BOARD, By

William Ahrens
William Ahrens, Chairman

=====

CARL RADY,

**

OFFICIAL

Appellant,

**

FINDINGS OF FACT

vs.

**

AND

NORMAN CLAPP, SECRETARY
DEPARTMENT OF TRANSPORTATION,

**

CONCLUSIONS OF LAW

**

Respondent.

=====

The Personnel Board having examined the file in this matter considering all of the evidence contained therein enters the following:

SUMMARY FINDINGS OF FACT

1. That a written letter was addressed to the appellant by the respondent, dated September 8, 1972, indicating that based on the written reasons elicited therein, disciplinary action consisting of suspension of one day without pay was taken against him under the provisions of the Wisconsin Statutes.

2. The correspondence between the parties indicates an agreement that notice of such disciplinary action was received by the appellant on September 12, 1972.

3. The letter of suspension, dated September 8, 1972, contained the notification that the appellant could appeal the matter to the State Board of Personnel within ten days of the date of the letter.

4. Chapter 270, Laws of 1971, amended the provisions of Section 16.24, Wis. Stats., (1969), to provide that after the effective date thereof (April 29, 1972), the recipient of a disciplinary action may, within 15 days of the effective date of the action or date of notification, whichever is later, file an appeal with the Personnel Board.

5. That on or about September 14, 1972, the appellant addressed and forwarded a letter to the District Engineer of the Division of Highways, Waukesha, Wisconsin, a letter objecting to the disciplinary action imposed, and expressed a desire to protest and appeal the action.

6. That on or about September 20, 1972, one Edgar W. Braun, District Office Supervisor, District 2, Waukesha, Wisconsin, addressed and forwarded a letter to the appellant in response to the appellant's letter of September 14, 1972. This letter contained a reiteration of the appellant's right to appeal, which advised him to appeal the action taken to the Board as referred to in the original letter of discipline. The letter of September 20 was in reply to the appellant's letter of protest of September 14, 1972, to the representative of the appointing authority.

7. That no notice of appeal to the Board was filed with the Wisconsin Personnel Board or any member thereof prior to the initial filing of an employee grievance under the contract at step 1 on or about March 6, 1973.

8. That the initial written notification, dated September 12, 1972, and the district letter of September 20, 1972, referred to the appellant's right of appeal to the Personnel Board.

9. That no appeal was filed with the Personnel Board within the period of time of either 15 days from the effective date of the action or the receipt of the written notification thereof to the State Personnel Board.

The Board having entered the following Summary Findings of Fact makes and files the following:

CONCLUSIONS OF LAW

1. That the disciplinary action of one day suspension, September 15, 1972, was received by the appellant on September 12, 1972, and that under the existing statutes in effect at that time required that the appellant file with the Board a notice for request for an appeal hearing on or before September 30, 1972.


2. That the appellant failed to file any notification with the Personnel Board, as required by statute and Board regulation, at any time prior to the prescribed time limit.

3. That the Personnel Board is without jurisdiction to hear the matter.

4. That the appellant's attempted appeal from the disciplinary action on March 6, 1973, be summarily dismissed by the Board for the lack of jurisdiction.

Dated at Madison, Wisconsin this 24th day of May, 1973.

STATE PERSONNEL BOARD, By



William Ahrens, Chairman