

OFFICIAL

STATE OF WISCONSIN

PERSONNEL BOARD

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KAREN M. JANZ and
FRANK VOLPINTESTA,

Appellants,

v.

C. K. WETTENGEL, Director,
State Bureau of Personnel,
WILBUR J. SCHMIDT, Secretary,
Department of Health and Social
Services, and
PAUL D. HICKEY, Director,
Kenosha County Department of
Social Services,

Respondents.

Case No. 74-76

* * * * *

ORDER
OF
DISMISSAL

Karen M. Janz, one of the Appellants herein, was an applicant for the position of Stenographer I in the Kenosha County Department of Social Services. She was not among the three applicants who obtained the highest scores on the examination conducted for the position.

On July 25, 1974, she appealed the Respondents refusal to certify her eligible for the position, since she had been satisfactorily performing the job on a limited-term employment basis for approximately 4 1/2 months.

Frank Volpintesta, the other Appellant, is the Acting Corporation Counsel for Kenosha County and is the person for whom Ms. Janz worked in the position and he supports her appeal because he found her work satisfactory.

On September 4, 1974, the matter came on for a pre-hearing conference after all parties received due notice of the time and place. Appellant Janz did not appear. Appellant Volpintesta appeared personally. He conceded

that he was not a party to this proceeding, but that he was present to argue the cause for Appellant Janz with her knowledge and consent.

At such conference, Counsel for Respondents moved that the matter be dismissed on the grounds that Section 16.05(1)(g), Wis. Stats., 1971 and Chapter PW-PA 10, Wis. Adm. Code, does not grant a right of appeal to applicants for county positions covered by the merit system rules for county agencies promulgated by the State Department of Health and Social Services.

The rules of the Department grant permanent county employees of such county agencies a right of appeal from certain forms of disciplinary action, but does not provide applicants for employment or employees who are not permanent employees a right of appeal from the agencies refusal to certify them as eligible after an examination. Section PW-PA 10.12 provides for a right of appeal by permanent agency employees from termination, suspension, or demotion. Chapter PW-PA 10 does not create any right of appeal by other persons from any other kind of personnel action by the agency. Such Chapter does not authorize appeals to the Personnel Board under such other circumstances.

The allegations contained in the Appellant Janz's appeal, even if accepted as true, do not constitute the kind of appeal the Board is authorized to hear under county merit system rules and, therefore, the Board does not have jurisdiction under Section 16.05(1)(g) to hear the appeal.

The Respondent's Motion to Dismiss the proceedings is granted and the matter is hereby dismissed.

Dated Sept 9, 1974

STATE PERSONNEL BOARD

BY



William Ahrens, Chairman