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LOYD KUPPER,

Appellant,

v.

VERNE H. KNOLL, Deputy Director,  
State Bureau of Personnel,

Respondent.

Case No. 75-237

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JOHN BURMEISTER,

Appellant,

v.

VERNE H. KNOLL, Deputy Director,  
State Bureau of Personnel,

Respondent.

Case No. 75-238

\*\*\*\*\*

Before: JULIAN, Chairperson, STEININGER, and WILSON, Board Members,  
DECISION

Appellants are employees with permanent status in class, whose positions were reallocated to Job Service Supervisors 3. The reallocation actions were taken as a result of a survey of the entire Job Service Division of the Department of Industry, Labor and Human Relations, conducted by the Bureau of Personnel.

Appellants Kupper and Burmeister appealed their reallocations separately by letters dated December 1, 1975 and December 2, 1975, respectively. Both of these appeal letters were addressed to "DILHR Personnel" and indicated that a copy of the letter was sent to Clayton Harp, their supervisor. The appeal letters were received by this Board's office on December 19, 1975.

At the prehearing conferences held for these appeals on April 30, 1976

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Respondent moved that they be dismissed for lack of jurisdiction based on failure to file in a timely manner as required under Section 16.05(2), Wis. Stats.

We do not feel that we have sufficient facts upon which to decide this issue. Appellant Burmeister in his reply brief alleged that according to his memory he received the notice of his reallocation on November 20 or 21, 1975. He further alleges that his supervisor directed him to send the appeal letter to him indicating that he would then file it properly. Although Appellant Kupper did not file a brief, apparently he joins in Appellant Burmeister's allegations.

If it is true that Appellants were misinformed by management as to the proper route of appeal and thereby misled into not filing directly with the Personnel Board in a timely manner, then Respondent may be barred from raising the issue on timeliness under the theory of equitable estoppel. See Pulliam and Rose v. Wettengel, Personnel Board 75-51 (November 25, 1975); LaMarche v. Weaver and Knoll, Personnel Board 75-34 (December 22, 1975). Therefore, we will reserve our decision until after there is a hearing on the merits, at which evidence on the jurisdictional issue is presented.

Dated August 23, 1976.

STATE PERSONNEL BOARD

  
Percy L. Julian, Jr., Chairperson