

* * * * *
 *
 LEE B. LARSEN, *
 *
 Appellant, *
 *
 v. *
 MANUEL CARBALLO, Secretary, *
 Department of Health & Social Services, *
 *
 , Respondent. *
 *
 Case No. 76-227 *
 *
 * * * * *

OFFICIAL

INTERIM
OPINION
AND
ORDER

Before: DEWITT, Chairperson, WILSON, WARREN, MORGAN and HESSERT, Board Members

Nature of the Case

This is an appeal of the termination of a probationary employe pursuant to Article IV, Section 10 of the contract between the WSEU and the state of Wisconsin. At the prehearing conference, questions were raised as to the timeliness of the appeal and whether or not the termination letter is required to contain notice of appeal rights, upon which the parties, through counsel, have filed briefs. In his brief the respondent conceded the timeliness of the appeal.

Opinion

The contractual provision involved here contains the following pertinent language:

Article IV, Section 10: ". . . the retention or release of probationary employes shall not be subject to the grievance procedure except those probationary employes who are released do have the right to a hearing before the personnel board and must be advised in writing of the reasons for the release."

There is no provision here for notice of appeal rights and the employe cannot rely on the contract for any such requirement.

The appellant cites Beauchaine v. Schmidt, Wis. Pers. Bd. No. 73-38 (10/18/73). However, while notice of appeal rights were contained in the sample discharge letter

attached to the decision, the board did not hold that this was required as an element of due process or under state statutes. We conclude that respondent was not required to have provided notice of appellant's appeal right in this case.

Order

It is ordered that this matter be scheduled for hearing in due course.

Dated July 22, 1977

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson