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 JAMES R. FISCHER,  
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 Appellant,  
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 v.  
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 DEPUTY DIRECTOR, Bureau of Personnel,  
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 Respondent.  
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 Case No. 77-188  
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**OFFICIAL**

OPINION  
AND  
ORDER

Before: James R. Morgan, Calvin Hessert and Dana Warren, Board Members.

This is an appeal of a reallocation. The Respondent has moved to dismiss on the ground that the appeal was untimely and that the Board lacks subject matter jurisdiction, citing § 16.05 (1)(f), Wis. stats.: "Hear appeals of interested parties and of appointing authorities from actions and decisions of the director," and § 16.05 (2): "The Board shall not grant or appeal under sub (1)(e) or (f) unless a written request therefor is received by the Board within 15 days after the effective date of the decision, or within 15 days after the Appellant is notified of the decision, whichever is later."

The Board takes official notice that the appeal in this case, dated September 21, 1977, was received by the Board on September 23, 1977. At the prehearing conference the parties stipulated, and it is found, that the effective date of the reallocation was July 17, 1977, and that the Appellant received notice of the reallocation not later than July 17, 1977.

In his response to the motion to dismiss, Appellant took the following position:

When my reallocation to Administrative Officer III became effective on July 17, 1977, I fully understood that I had fifteen days to file an appeal. However, as set forth in Exhibit Four, because

Fischer v. Bur. of Pers.  
Case No. 77-188  
Page Two

my reallocation was made as part of the same audit and as only the first step in a complete audit of the examiner positions in the Office of the Commissioner of Securities, I did not want to prejudice the balance of that audit which was not completed until September 2, 1977. Since my reallocation was only part of that audit, I concluded that an appeal could be made within fifteen days of the effective date (September 25, 1977) of the reclassification of all the examiner positions.

I hereby petition the Personnel Board to conclude that my appeal was timely filed because it was received by the Board within fifteen days after the effective date of the reclassification of all the examiner positions. (letter of December 7, 1977)

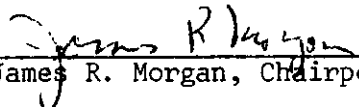
It is concluded that the 15 day time period set forth in § 16.05 (2) refers to the decision affecting the "interested party," in this case the Appellant, and not to a decision affecting other persons such as the other auditors, and that since this decision was effective July 17, 1977 the appeal was untimely.

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated: 2-20, 1978

STATE PERSONNEL BOARD

  
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James R. Morgan, Chairperson