

STATE OF WISCONSIN

STATE PERSONNEL BOARD

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KATHLEEN BREININGER,

Appellant,

v.

NORMAN CLAPP, Chairman,
Public Service Commission,

Respondent.

Case No. 77-58

* * * * *

OFFICIAL

INTERIM
DECISION AND ORDER

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

NATURE OF THE CASE

This is an appeal from the nonretention of a probationary employee under Article IV, Section 10, of the Agreement between AFSCME Council 24, Wisconsin State Employees Union, AFL-CIO, and the State of Wisconsin (August 15, 1976-June 30, 1977) (hereinafter called Agreement).

DECISION

Appellant whose position was classified as Typist 2 was terminated effective March 11, 1977. She appealed to this board by letter dated March 8, 1977. At the prehearing conference which was held on May 6, 1977, Respondent moved the board to dismiss this appeal for lack of subject matter jurisdiction or, in the alternative, to not exercise its discretion to hear it. Briefs were filed by the parties.

In our decision In re Request of AFSCME, Council 24, WSEU, AFL-CIO, for a Declaratory Ruling, Case No. 75-206 (August 24, 1976), we determined that we do have a discretionary jurisdiction to hear the appeals from the termination of probationary employees whose positions are covered by the Agreement. Therefore, Respondent's motion to dismiss for lack of subject matter jurisdiction is denied.

We have set forth a minimum standard by which we at this time determine whether or not we will hear cases such as the instant one. That standard is that the appeal is not frivolous on its face. (Declaratory Ruling, supra, p. 9.) From the record to date, we conclude that this appeal is not frivolous on its face.

ORDER

IT IS HEREBY ORDERED that Respondent's motion to dismiss is denied and that this appeal be set for hearing in the normal course of procedure.

Dated July 22, 1977.

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson