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without competition into the classified position via § 16.11(1), stats.

4. The appellants were then appointed to the classified positions.
5. The effective date for these transactions was November 6, 1977.
6. The appellants were given notice of these transactions by a copy of a letter from the director to the DILHR secretary dated January 12, 1978.
7. Mr. Besse received that letter on January 17, 1978.
8. Mr. Besse's letter of appeal was dated January 26, 1978, postmarked January 31, 1978, and received by the Personnel Board on February 2, 1978.

CONCLUSIONS OF LAW

1. Appellant Bischel is an interested party pursuant to § 16.05(1)(f), stats.
2. The Personnel Board has jurisdiction over Mr. Bischel's appeal, No. 78-24.
3. The appeal of Mr. Besse was not filed in a timely manner pursuant to § 16.05(2), stats.
4. The Personnel Board does not have jurisdiction over Mr. Besse's appeal, No. 78-23

OPINION

The respondent's position on jurisdiction is reflected in a letter to the Personnel Board dated March 17, 1978, p. 3:

" . . . the classification decision in a 16.11(1) transaction is made prior to the appointment of the unclassified employe to the classified position. . . Consequently, the decision of the director to allocate the two positions in question to the Administrative Assistant 5 class was made at a time when, as unclassified employes (they) had no rights

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relating to those unclassified positions. Their rights as classified employe did not go into effect until they were formally appointed to the new positions.

However, § 16.05(1)(f), stats. provides that "actions and decision of the director" may be appealed by "interested parties." Appeal rights under this subsection are not restricted to "employees" as in the case under some other provisions, e.g., § 16.05(1)(e), stats. In the Board's opinion the appellants are "interested parties" with respect to the director's decision regarding the classification of their positions. Even if there might have been a question as to their status to appeal at the time the director made the decision as to the classification of their positions, they received notice after the completion of this transaction and their transfer into the classified service. These actions were effective November 6, 1977, and they received notice after January 12, 1978.

With respect to the question of the timeliness of Mr. Besse's appeal, § 16.05(2), stats., provides "the Board shall not grant an 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." This provision has been interpreted as jurisdictional in that failure of compliance cuts off the authority of the Board to hear the case. See Olson v. Wettengel, Wis. Pers. Bd. No. 327 (12/22/69); Scott v. Estkowski, Wis. Pers. Bd. No. 379 (1/29/71); Odan v. Personnel Board, 250 Wis. 600 (1947). Mr. Besse's appeal was received one day late. He argues that he should not be held responsible for the vicissitudes of the mail service. However, the statute clearly requires receipt by the Board within 15 days and consistently has been so interpreted by the Personnel Board, various circuit courts, and the supreme court. The Board lacks

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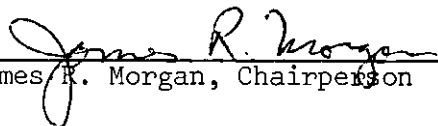
the authority to consider Mr. Besse's letter timely on the basis of when it was committed to the postal system.

ORDER

Respondent's motion to dismiss Mr. Bischel's appeal, No. 78-24, is denied. Respondent's motion to dismiss Mr. Besse's appeal, No. 78-23, is granted and that appeal is dismissed on the grounds that it was not timely filed and the Board lacks subject matter jurisdiction.

Dated: April 11, 1978

STATE PERSONNEL BOARD


James R. Morgan, Chairperson