

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 JAMES R. HUMPHREY, *
 *
 Appellant, *
 *
 v. *
 *
 DEPARTMENT OF TRANSPORTATION, *
 *
 Respondent. *
 *
 Case No. 78-287-PC *
 *
 * * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal of the denial of a non-contractual grievance at the third step which is before the Commission on the respondent's objection to subject-matter jurisdiction. The parties have filed written arguments. The findings which follow are based on matter in the file which appears to be undisputed.

FINDINGS OF FACT

1. The appellant's non-contractual grievance at the third step was as follows:

"July 5, 1977 management unilaterally terminated my use of a state vehicle or full payment for use of my private car for state business ... July 5, 1977 to October 18, 1978.

* * *

Relief sought. Payment of difference for use of personal car for State Business Miles -- over amount allowed. Total Claim - \$929.61 - See Attachments."

2. The agency's answer at the third step was as follows:

"The grievant has been properly reimbursed, in accordance with the applicable state statutes and state policies and procedures, for all miles driven on state business for the period July 5, 1977, to October 18, 1978. Grievance denied."

CONCLUSIONS OF LAW

1. This grievance does not involve a rule of the director or a state civil service statute or a function where the administrator has expressly delegated his authority to the appointing authority.

2. The Commission lacks jurisdiction over the subject matter of this appeal.

OPINION

The Administrative Procedures Manual, Part: Personnel, Section: Administration, Subject: Non-contractual Employee Grievance Procedure, Bulletin Number 1, effective August 24, 1966, revised October 1, 1974, provides pursuant to Chapter Pers. 25, Wis. Adm. Code, the uniform standards for departmental non-contractual grievances.¹ Matters appealable at the fourth step to the Board (now Commission) are set forth in § 1.D.1. b.:

" ... only those complaints which allege that an agency has violated, through incorrect interpretation or unfair application:

1) a rule of the Director, State Bureau of Personnel or a Civil Service Statute ...

or

2) a function where the Director of the State Bureau of Personnel has expressly delegated his authority to the appointing officer ... may be appealed to the State Personnel Board."

The subject matter of this grievance concerns appellant's authorization

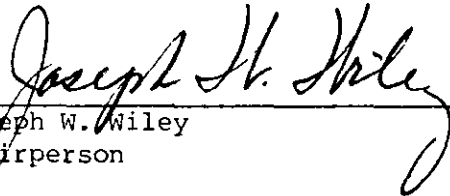
¹In the absence of the promulgation of rules of the secretary pursuant to §230.45(1)(c), Stats., these standards remain in effect pursuant to §129(4q), Chapter 196, Laws of 1977.

to use a state vehicle. In his brief on jurisdiction the appellant cites §16.535, Stats., "Reimbursement for Travel Expenses." This section is not part of Subchapter II of Chapter 230 and is not a civil service statute. It is administered by the agency appointing authorities and the secretary of the Department of Administration. The Commission can discern no basis for jurisdiction over this appeal. Compare, Gohl v. DOR, Wis. Pers. Commn. 78-67-PC, (11/22/78); Schultz v. DOR, Wis. Pers. Bd. 76-185, (2/20/78).

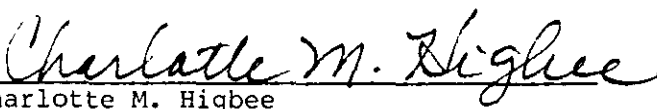
ORDER

This appeal is dismissed for lack of subject-matter jurisdiction.

Dated: Aug 15, 1979. STATE PERSONNEL COMMISSION



Joseph W. Wiley
Chairperson



Charlotte M. Higbee
Commissioner

AJT:jmg

7/24/79