

STATE OF WISCONSIN

PERSONNEL COMMISSION

 *
 JUDY WAGAMAN, *
 *
 Appellant, *
 *
 v. *
 *
 DEPARTMENT OF HEALTH AND *
 SOCIAL SERVICES, *
 *
 Respondent. *
 *
 Case No. 79-141-PC *
 *

INTERIM
DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal of a probationary termination. The respondent has moved to dismiss for lack of subject-matter jurisdiction, and the parties have submitted written arguments. The essential facts relating to jurisdiction do not appear to be in dispute.

FINDINGS OF FACT

1. The appellant was promoted from Clerk 4 to Administrative Assistant 1 - Supervisor on December 18, 1978, with a six months' promotional probationary period.
2. The appellant was dismissed from this position on June 3, 1979, and reinstated to Clerk 4.
3. The Administrative Assistant 1 - Supervisor position was not covered by a collective bargaining agreement.

CONCLUSIONS OF LAW

1. The termination of appellant's probation was a "personnel action after certification which is related to the hiring process in the classified service," see §230.44(1)(d), Stats. (1977).

2. The Commission has jurisdiction over this appeal pursuant to §230.44(1)(d).

OPINION

It is correct, as argued by the respondent, that only an employe with permanent status in class may appeal a discharge pursuant to §230.44(1)(c), Stats. However, the probationary period "is an integral part of the examination process," § Pers. 13.01, Wis. Adm. Code, and in the opinion of the Commission, a probationary termination falls within the purview of §230.44(1)(d):

"A personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the commission."

The appellant has alleged that her probationary termination was illegal and an abuse of discretion, and the Commission does have jurisdiction over the subject matter of this appeal pursuant to §230.44(1)(d), Stats.

ORDER

The respondent's motion to dismiss for lack of jurisdiction over the subject matter is denied.

Dated: Sept 14, 1979.

STATE PERSONNEL COMMISSION

Joseph W. Wiley
Joseph W. Wiley, Chairperson

Charlotte M. Higbee
Charlotte M. Higbee, Commissioner