

STATE OF WISCONSIN

PERSONNEL COMMISSION

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DAVID L. WING,

Appellant,

v.

UNIVERSITY OF WISCONSIN,

Respondent.

Case No. 79-20-PC

* * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal of the denial of a unilateral (non-contractual) grievance at the third step. The respondent has objected to the Commission's jurisdiction over the subject matter of this appeal. The basic facts relating to jurisdiction do not appear to be in dispute.

FINDINGS OF FACT

1. The appellant's appeal letter dated January 24, 1979, contains in part the following:

"This letter is an appeal of the denial of a non-contractual grievance at the third step as indicated in a letter and attachment from Robert A. Alesch The issue being appealed from is [the] denial of Mr. Wing's request for a blanket ten percent per week time to gather information for other appeals and grievances presently pending."

2. The Administrative Practices Manual, subject, non-contractual employe grievance procedures, personnel, bulletin number 1, effective 8/24/66, revised 10/1/74, issued pursuant to Chapter Pers. 25, WAC, provides at paragraph I.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."

CONCLUSIONS OF LAW

1. The subject matter of this appeal does not fall within the categories of matters appealable to the Personnel Commission at the fourth step as set forth in Finding #2, above.

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

OPINION

The provisions of the APM cited in Finding #2 limit the types of non-contractual grievances which can be appealed to the Commission. The appellant has not alleged a violation of a civil service rule or statute nor that the grievance involves a function where the director (now administrator) has expressly delegated his authority to the appointing authority. As was set forth in Wing v. UW, case no. 78-137-PC (4/19/79), the repeal of §16.03(4), Stats. (1975) effectively undermines the argument that any action alleged to be illegal or an abuse of discretion can be appealed to the Commission.

ORDER

This appeal is dismissed for lack of jurisdiction over the subject matter.

Dated:

July 5, 1979.

STATE PERSONNEL COMMISSION

Joseph W. Wiley
Joseph W. Wiley
Chairperson

Charlotte M. Higbee
Charlotte M. Higbee
Commissioner

AJT:jmg