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 *
 JANICE LAWRY, *
 *
 Appellant, *
 *
 v. *
 *
 DIVISION OF PERSONNEL, *
 *
 Respondent. *
 *
 Case No. 79-26-PC *
 *
 * * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal of a classification matter which is before the Commission on the respondent's objection to subject matter jurisdiction on the grounds that the appeal was not timely filed.

FINDINGS OF FACT

1. The appellants' appeal letter was received by the Commission on January 31, 1979.
2. This appeal letter was signed by Ms. Lawry and an Annette M. Nichols.
3. Attached to the letter were memoranda indicating the denial of their reclassifications, the one with respect to Ms. Nichols dated December 27, 1978, and the one with respect to Ms. Lawry dated December 11, 1978.
4. At the prehearing conference held on May 24, 1979, Ms. Nichols withdrew from the appeal because her reclassification had been approved.
5. Also at that prehearing Ms. Lawry stated that to the best of her recollection she has received the notice of reclassification denial

between Christmas 1978 and New Year's day and the Commission so finds.

CONCLUSIONS OF LAW

1. The appellant has the burden of proof as to all issues, including jurisdiction.
2. The appellant has failed to sustain her burden of proving that the appeal was timely filed, and the Commission concludes that it was not timely filed.
3. The Commission lacks subject-matter jurisdiction over this appeal.

OPINION

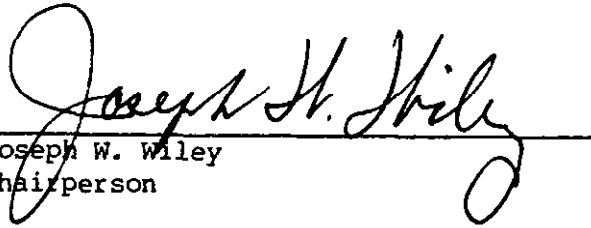
It is the opinion of the Commission that with the exception of appeals of disciplinary matters, the burden of proof as to all issues, including jurisdiction, is on the party seeking relief. See, e.g., Van Laanen v. Wettengel, Wis. Pers. Bd. No. 74-17, (1/2/75). Even though the appellant's recollection of when she received the notice was not clear, it is the only indication of when the notice was received and this indication is that it was prior to New Years Day. Since the burden of proof is on the appellant, there is no way that the Commission can do other than find that appellant received the notice before January 1, 1979, and conclude that the appeal was not timely filed. The fact that the appeal was timely with respect to Ms. Nichols is not material to the issue of the timeliness of Ms. Lawry's appeal.

ORDER


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

Dated: July 31, 1979.

STATE PERSONNEL COMMISSION



Joseph W. Wiley
Chairperson



Charlotte M. Higbee
Commissioner

AJT:arl
7/30/79