

OFFICIAL

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *

ROGER MEINHOLZ,

Appellant,

v.

Secretary, DEPARTMENT OF
REVENUE, and Administrator,
DIVISION OF PERSONNEL,

Respondent.

Case No. 79-352-PC

* * * * *

INTERIM
DECISION
AND
ORDER

NATURE OF THE CASE

This matter is before the Commission on an appeal by the appellant, Roger Meinholz, of the effective date of his reclassification from an Auditor 3 to Auditor 4, and the denial of an increase in his pay rate to the maximum rate paid for the position in his district. The immediate question to be answered is whether or not the Commission has jurisdiction to hear this matter. Briefs, supporting documents and memoranda were filed by the parties.

On August 14, 1979, the appellant filed a grievance requesting reclassification of this position from Auditor 3 to Auditor 4, retroactively effective from 1972. The appellant's grievance was treated as a request for reclassification, and the appellant was reclassified to an Auditor 4, effective October 21, 1979.

The respondent argues that the appellant, on August 10, 1978, reviewed his personnel file, and from that knew that no reclassification request for his position had been submitted. He did not appeal to the Personnel Commission until November, 1979. Therefore, the appeal is untimely, whether under old law, s.16.05(2), Wis. Stats., (1975), or the current statute, s.230.44(3),

Wis. Stats, because they required filing of appeals within 15 and 30 days respectively, after the effective date of the action or decision or notification, whichever is later.

The appellant, Mr. Meinholz, cites Ebert v. DILHR, Case No. 79-119-PC and Doll v. Div. of Pers., Case No. 78-110-PC, in support of his argument that he has a right to have the Commission consider 1972 or any subsequent date as the effective date of his reclassification.

Both Ebert and Doll are distinguishable from the present case. In Ebert, the appellant presented information which gave rise to the question of whether there existed a nexus between her request for reclassification and the administrator's decision. Similarly, in Doll the Commission based its decision upon the showing of a link between the reclassification request and the final decision.

Unlike Ebert or Doll, the appellant has presented no information demonstrating a reasonable probability of a connection between his claims from 1972 and respondent's decision in 1979.

The undisputed evidence is that on August 10, 1978, the appellant met with Michael Kaphingst of respondent's Bureau of Personnel. During that meeting the appellant was allowed to review his personnel file and found this it contained no request submitted for his reclassification. The appellant took no action until he filed a grievance on August 19, 1979.

Neither Ebert nor Doll should be construed as justifying appeals prohibited in s.230.44(3), Wis. Stats.

The appellant in the instant case, had notice on August 10, 1978, that the respondents were not processing any reclassification request for his position

and the time for appeal commenced on that date. The Commission concludes that any portion of appellant's appeal of November 20, 1979, based upon respondent's action prior to August 10, 1978, is untimely under §230.44 (3), Wis. Stats.

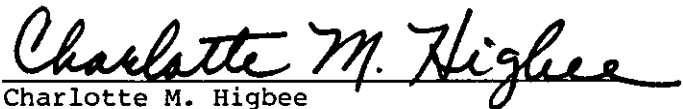
In regard to the period of time after August 10, 1978, the appellant fails to provide information or explain why he did not appeal before November 20, 1979. Accordingly, the Commission lacks authority, for reasons of untimeliness, to hear any portion of this appeal pertaining to respondent's actions prior to August 14, 1979.

ORDER

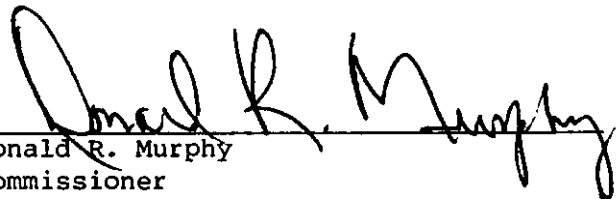
IT IS HEREBY ORDERED that respondent's motion to dismiss is denied and that this appeal be limited to considering an effective date of appellant's reclassification to Auditor 4 of no earlier than August 14, 1979.

Dated: June 30, 1980.

STATE PERSONNEL COMMISSION



Charlotte M. Higbee
Commissioner



Donald R. Murphy
Commissioner



Gordon H. Brehm
Commissioner