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 \*  
 DAVID WING, \*  
 \*  
 Appellant, \*  
 \*  
 v. \*  
 \*  
 President, UNIVERSITY OF WISCONSIN, \*  
 \*  
 Respondent. \*  
 \*  
 Case No. 80-274-PC \*  
 \*  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

**OFFICIAL**

NATURE OF THE CASE

This is an appeal of the decision of a non-contractual grievance relating to various documents allegedly missing from appellant's personnel file. The respondent has objected to subject matter jurisdiction and the parties have filed written arguments.

DECISION

The respondent argues that this appeal does not involve "conditions of employment" and therefore is not cognizable under §230.45(1)(c), Wis. Stats., which provides that the Commission shall:

"Serve as final step arbiter in a state employe grievance procedure relating to conditions of employment, subject to rules of the secretary providing the minimum requirements and scope of such grievance procedure." (emphasis added)

The subject matter of this grievance does not relate to wages or hours. Questions as to the contents of a personnel file do relate to "conditions of employment."

Inasmuch as no rules have been promulgated by the Secretary of DER pursuant to §230.45(1)(c), Stats., the Commission has been looking to the pre-existing grievance structure to determine the "minimum require-

ments and scope" of the grievance procedure. See DOT v. Pers. Comm. (Kennel, Brauer, and Murphy), Dane County Circuit Court No. 79-CV-1312 (7/21/80); sec. 129(4q), Ch. 196, Laws of 1977. This pre-existing grievance structure, see §Pers. 25.01, Wis. Adm. Code, and Administrative Practices Manual, State of Wisconsin, Department of Administration, Subject: Non-contractual Employee Grievance Procedures, effective 8/24/66, revised 10/1/74, provides as material that grievances which can be appealed to the fourth step (i.e., this Commission) are limited to complaints which allege that the employing agency has violated, through incorrect interpretation or unfair application, a personnel rule or civil service statute (formerly §§16.01 - 16.38, Stats., (1975), now §§230.05 - 230.45, Stats. (1979).

Neither the civil service statutes nor personnel rules govern employee access to personnel records. This subject is governed by §103.13, Stats., which was referred to by the appellant in his written arguments as well as in his grievance. Section 103.13, Stats., is not a civil service statute and it is not included in §§230.05 - 230.45, Stats. Charges of violations of §103.13 cannot serve as a basis for the Commission's jurisdiction over a non-contractual grievance.

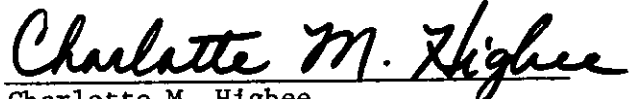
Wing v. UW  
Case No. 80-274-PC  
Page 3

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated April 1, 1981

STATE PERSONNEL COMMISSION

  
Charlotte M. Higbee  
Chairperson

  
Gordon H. Brehm  
Commissioner

Commissioner Murphy did not participate in the consideration or decision of this matter due to his prior employment as counsel to the respondent with respect to other matters involving this appellant.

AJT:mek

Parties:

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