

Administrative Practices Manual (APM) (Subject: Non-Contractual Employee Grievance Procedure), declined further action.

4. The aforesaid APM section provides:

"An employe who voluntarily terminates employment while a grievance is in process will have his grievance immediately withdrawn and shall not benefit by any later settlement of a group grievance unless entitled by law."

5. The aforesaid APM provides at section I.D.1. as follows:

"The following revised standards are to be followed by each state agency and must be reflected in its grievance procedure."

6. On October 8, 1980, the appellant filed an appeal with the Commission in pertinent part as follows:

"Enclosed is a grievance complaint submitted to the Council on Criminal Justice. The complaint was denied. I am now appealing this complaint to the Personnel Commission."

CONCLUSIONS OF LAW

1. In the absence of the promulgation of rules by the Secretary of the Department of Employment Relations pursuant to s.230.45(1)(c), Stats., the Commission must look to the APM cited above to determine the appropriate boundaries of the employe noncontractual grievance procedure.

2. Since the appellant resigned her employment while her grievance was in process before the agency, it was appropriate for the agency to have considered it withdrawn.

OPINION

Section 230.45(1)(c), Stats., 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."

While no such rules have been promulgated to date, chapter 196, Laws of 1977, which contained the revised civil service code, contains a transition provision, s.129(4g), which provides in part:

"The rules of the director of the bureau of personnel in the department of administration promulgated under section 16.03, 1975 Stats., shall remain in full force and effect until modified."

Section Pers 25.01, Wis. Adm. Code, has not been modified and contains the following language:

"...each department shall, as required by the director, establish a written grievance procedure. Such procedure shall meet standards prescribed by the director."

Therefore, in the absence of rules issued by the DER secretary, the aforesaid rule of the director, and the grievance procedure standards incorporated in the APM issued pursuant to the rule, provide the framework for the grievance procedure.

The APM provides that when an employe voluntarily terminates employment while the grievance is in process, the grievance shall be withdrawn. Since this is what happened here, the respondent must be upheld in its decision to refuse to process the grievance further.

ORDER

The respondent's determination that the appellant's grievance was a nullity is affirmed and this appeal is dismissed.

Dated March 2, 1981

AJT:mgd

Parties

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