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STANLEY STARCZYNSKI and
 BETTY MAYFIELD,

 Appellants,*

 v.

 Secretary, DEPARTMENT OF
 ADMINISTRATION,

 Respondent.*

Case Nos. 81-275,276-PC

* * * * *

DECISION
 AND
 ORDER

These matters are before the Commission as appeals from a decision by respondent to reduce the appellants' rate of pay upon inter-departmental transfer. At the prehearing conference, the parties agreed to submit written arguments on the following issues:

1. Whether or not the appeal was untimely filed.
2. Does the Commission have jurisdiction pursuant to Sections 230.44 or 230.45, Wisconsin Statutes?
3. Is the Department of Administration equitably estopped from changing appellants' pay rate?

The parties agreed that the Commission would make its determination on the basis of stipulated facts and briefs. The following Findings of Fact are matters that appear to be undisputed.

FINDINGS OF FACT

1. Sometime prior to April 22, 1981, appellants voluntarily applied for interdepartmental transfers from their respective employing units to the Department of Administration.
 - A. Appellant Mayfield was employed at the Department of Health and Social Services, Mendota Mental Health Institute.
 - B. Appellant Starczynski was employed at the University of Wisconsin-Madison.

2. By letters dated April 22, 1981, appellants were informed by Mr. Neil Steinhoff, Administrator of the Division of Buildings and Grounds for the Department of Administration, that their transfers had been confirmed. The letters also stated that there would be no change in the hourly salary rate of \$6.347 for appellant Mayfield and \$6.370 for appellant Starczynski.

3. Appellants began work for the respondent on May 4, 1981.

4. By letters dated May 20, 1981, the appellants were informed by Mr. Thomas L. Herman, Assistant Personnel Director for the Department of Administration, that the salary information given in the appointment letters was not accurate. Mr. Herman informed the appellants that at the time they voluntarily accepted transfers, their salaries were red-circled because they were above the pay range maximum of \$6.321 per hour for Building Maintenance Helpers 2.

5. Mr. Herman's letter of May 20, 1981 to appellant Mayfield stated that her hourly rate of pay with the respondent would be reduced by \$.026 per hour, effective May 4, 1981, to \$6.321 per hour. Ms. Mayfield received Mr. Herman's letter on May 22, 1981.

6. Mr. Herman's letter of May 20, 1981 to appellant Starczynski stated that his hourly rate of pay with the respondent would be reduced by \$.049 per hour, effective May 4, 1981, to \$6.321 per hour. Mr. Starczynski received Mr. Herman's letter on May 22, 1981.

7. Both appellants were required to serve a six month probationary period upon their appointment.

8. Both appellants filed written appeals with the Commission on June 22, 1981.

CONCLUSIONS OF LAW

1. Both of the appeals were timely filed with the Commission.
2. The Commission lacks subject matter jurisdiction over the appeals.

OPINION

Timeliness

On May 22, 1981, the appellants were notified by letter of the respondent's decision to reduce their rate of pay. There is a thirty day time limit for filing an appeal under s.230.44, Wis. Stats:

"(3) Time limits. Any appeal filed under this section may not be heard unless the appeal is filed within 30 days after the effective date of the action, or within 30 days after the appellant is notified of the action, whichever is later ..." s.230.44(3), Wis. Stats.

The thirtieth day after May 22, 1981 was Sunday, June 22, 1981.

"If the last day within which an act is to be done or proceeding had or taken falls on a Sunday or legal holiday the act may be done or the proceeding had or taken on the next secular day." s.990.001(4)(b), Wis. Stats.

Therefore, by filing their appeals with the Commission on Monday, June 22, 1981, the appellants complied with the requirements of s.230.44(3), Wis. Stats.

Subject-Matter Jurisdiction

The second issue is whether the Commission has subject-matter jurisdiction over the instant appeals. Appellants argue that the Commission's jurisdiction may be premised on either s.230.44(1)(c) or (d), Wis. Stats. The latter provision permits appeals from certain actions "after certification". In the present case, no names were certified for the positions because they were filled by transfer. s.230.29, Wis. Stats. Therefore, the Commission lacks jurisdiction

over the appellants' claims under s.230.44(1)(d), Wis. Stats.

Appellants also argue that their appeals fall within the terms of s.230.44(1)(c), Wis. Stats., which provides:

"If an employe has permanent status in class, the employe may appeal a demotion, layoff, suspension, discharge, or reduction in pay to the commission, if the appeal alleges that the decision was not based upon just cause."

"Permanent status in class" is defined in section Pers 1.02(13), Wis. Adm. Code as:

"the rights and privileges attained upon successful completion of a probationary period required upon an appointment to permanent, seasonal or sessional employment.

Both of the appellants transferred to positions within the respondent department from outside agencies. Both were also required to serve a six month probationary period (Commission's Exhibit 2) as provided in section Pers 15.03, WAC. Even though the appellants presumably had permanent status in class with respect to their old positions, they relinquished that status upon beginning the probationary period for their new positions with DOA. The reduction in pay occurred within the six month probationary period during which the appellants lacked permanent status in class. Therefore, the Commission lacks jurisdiction over the appellant's claims under s.230.44(1)(c), Wis. Stats.

None of the other sources of the Commission's jurisdiction, as set out in ss.230.44 and 45, Wis. Stats., apply to this appeal. Because the Commission has no jurisdiction over the subject-matter of this appeal, it is dismissed without reaching the issue of equitable estoppel.

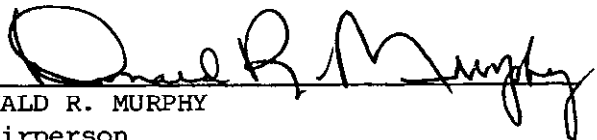
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ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated: Dec. 3, 1981

STATE PERSONNEL COMMISSION


DONALD R. MURPHY
Chairperson

KMS:ers

Parties

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