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 EKITA LEVERETTE,  
                   Complainant,  
 v.  
 Secretary, DEPARTMENT OF  
 ADMINISTRATION,  
                   Respondent.  
 Case No. 82-PC-ER-50  
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INTERIM  
 DECISION  
 AND  
 ORDER

This matter is before the Commission on the respondent's objection to subject matter jurisdiction.

This case involves a complaint of discrimination on the basis of race and sex. The complaint alleges that the complainant applied for employment in a position in the state of Wisconsin budget office within DOA but located in Washington, D.C., and was refused employment on the basis of race and sex. The respondent agency has objected to subject matter jurisdiction on the ground that:

"The alleged discrimination in this case took place in Washington, D.C. The Personnel Commission is an agency of the State of Wisconsin. Therefore, its jurisdiction does not extend beyond the boundaries of the State of Wisconsin" letter-brief dated July 21, 1982."

As an administrative agency, the Commission's jurisdiction is determined strictly by statute. The Commission has been given the authority pursuant to s.230.45(1)(b), stats., to "receive and process complaints of discrimination under s.111.33(2)." Section 111.33(2) provides in part as follows:

"This subchapter applies to each agency of the state except that complaints of discrimination or unfair honesty testing against the agency as an employer shall be filed with and processed by the personnel commission under s.230.45(1)(b). Decisions of the personnel commission are subject to review under ch. 227."

Section 111.32(3) states that the term "employer" "... shall include each agency of the state ..."

There has been an allegation in a brief filed on behalf of the complainant that the ultimate hiring decision in this case was made in Madison by the secretary of the DOA. While at this stage of the proceeding this is only an allegation, pursuant to s.230.03(4), stats., the "appointing authority" is defined as "... the chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes." Thus the secretary of DOA is legally responsible for all appointments within the agency wherever the work site, and presumably exercises his authority within the confines of the State of Wisconsin. Therefore, the Commission is of the opinion at this point that there is no reason not to exercise its jurisdiction over this matter, and it need not reach the question of the extent of its authority over a transaction occurring completely out of state.


ORDER

The respondent's objection to subject matter jurisdiction as set forth in the letter from the office of Legal Counsel dated July 21, 1982, is overruled.

Dated: Sept 3, 1982

STATE PERSONNEL COMMISSION

AJT:ers

  
DONALD R. MURPHY, Chairperson

Parties

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