

\* \* \* \* \*  
 \*  
 THOMAS J. KERR, \*  
 \*  
                   Appellant, \*  
 \*  
 v. \*  
 \*  
 Secretary, \*  
 DEPARTMENT OF TRANSPORTATION, \*  
 \*  
                   Respondent. \*  
 \*  
 Case No. 85-0042-PC \*  
 \*  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

The appellant seeks review of a third step decision in the grievance procedure. Respondent filed a jurisdictional objection and the parties were provided an opportunity to submit arguments.

The Commission's authority with respect to grievances is based on §230.45(1)(c), Stats., which provides:

- (1) The Commission shall:

\* \* \*

- (c) 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.

The rules of the Secretary, Department of Employment Relations, relating to the grievance procedure are formed in ch. ER 46, Wis. Adm. Code. Under that chapter an "employe" may grieve only certain types of issues. The rules also define "employe" as

a state employe in the classified civil service under §230.08(3), Stats., except a limited term employe or an employe covered by a collective bargaining agreement under subch. V of ch. 111, Stats. §ER46.02(2), Wis. Adm. Code (emphasis added).

The face of the documents attached to the letter of appeal in this matter indicate that the appellant's classification is that of Engineering Technician 4, which is covered by a collective bargaining agreement between the State of Wisconsin and the State Engineering Association.

Because the appellant is covered by a bargaining agreement, the Commission may not act as the final step review of his grievance. The Commission has also considered the other jurisdictional bases found in §§230.44 and .45, Stats., and concludes that none of those provisions are of sufficient scope to include the instant appeal. Therefore, the Commission issues the following


ORDER

This matter is dismissed due to lack of subject matter jurisdiction.

Dated: July 3, 1985 STATE PERSONNEL COMMISSION

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

  
LAURIE R. MCCALLUM, Commissioner

KMS:jmf  
ID6/1

Parties:

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