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 EVERETT NEWBERRY,
 Appellant,
 v.
 President, UNIVERSITY OF
 WISCONSIN SYSTEM (Richland
 Center) and Secretary,
 DEPARTMENT OF EMPLOYMENT
 RELATIONS,
 Respondents.
 Case No. 87-0066-PC
 * * * * *

DECISION
 AND
 ORDER

The following facts appear to be undisputed:

1. In the December 7, 1986, State Service Current Opportunities Bulletin, a vacancy in the Laborer classification at the UW-Richland Center was announced. The announcement indicated that the starting hourly rate of pay for the position would be \$7.20.
2. The Laborer classification at all times material to the instant appeal was assigned to pay range 03-04. On December 7, 1986, the minimum hourly rate of pay for a position in pay range 03-04 was \$7.203.
3. On January 24, 1987, the examination for the subject vacant position was administered.
4. Effective February 1, 1987, the minimum hourly rate of pay for a position in pay range 03-04 was reduced to \$6.218. This reduction resulted from pay equity adjustments proposed by the Department of Employment Relations (DER) and approved by the Legislature's Joint Committee on Employment Relations (JCOER) pursuant to the provisions of a legislative enactment.

5. Appellant was interviewed for the subject vacant position on April 1, 1987. At such interview, appellant was advised that the starting hourly rate of pay for the position would be \$6.218.

6. Appellant was appointed to the subject position and began work on April 3, 1987.

7. Appellant filed the instant appeal with the Commission on May 5, 1987. The instant appeal relates to respondent's determination of appellant's starting salary in the subject position and its variance from that indicated in the announcement of the vacancy.

8. On June 24, 1987, respondent filed a motion to dismiss the instant appeal on the bases that:

a) it was untimely filed; and

b) the Commission lacks subject matter jurisdiction because it lacks jurisdiction to hear appeals regarding decisions of JCOER and because it lacks jurisdiction over decisions of the Secretary of DER under §ER-Pers 29.03, Wis. Adm. Code.

Section 230.44, Stats., sets forth, inter alia, the procedures governing appeals filed with the Commission. Section 230.44(3), Stats., states:

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...

The Commission has consistently held that these time limits are jurisdictional in nature. See Richter v. DP, Case No. 78-261-PC (1/30/79).

In this case, the effective date of the subject action was April 3, 1987, the effective date of appellant's appointment to the subject position. Appellant was notified of the reduction in the starting hourly rate of pay for the subject position on April 1, 1987, the date of his interview,

and it must be presumed that he was notified of his appointment to the subject position on or after April 1, 1987, but on or before April 3, 1987. The latest of these dates is April 3, 1987, 32 days prior to appellant's filing of the instant appeal with the Commission. Appellant did not, therefore, file his appeal within the 30-day time limit and the Commission does not, therefore, have jurisdiction to hear and decide this appeal.

Appellant argues in his brief that, since respondent did not raise the timeliness issue at the prehearing conference, "any objection raised in the respondent's brief regarding the time limits of the appeal are not properly placed and should not be considered by the Commission." However, it is clear that jurisdictional objections can be raised at any time during the pendency of an appeal. Appellant had ample opportunity to respond to respondent's objections in this regard.

Since the Commission has found that the instant appeal was untimely filed, it is unnecessary to consider the other objections to subject matter jurisdiction.

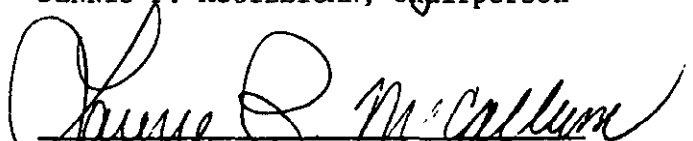
ORDER

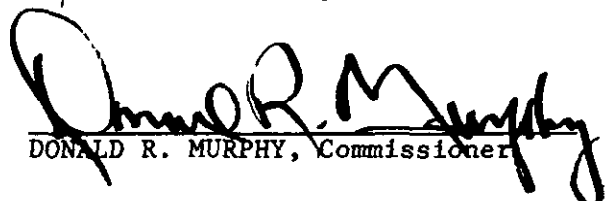
This appeal is dismissed as untimely filed.

Dated: September 10, 1987 STATE PERSONNEL COMMISSION

LRM:jmf
JMFO4/2


DENNIS P. MCGILLIGAN, Chairperson


LAURIE R. MCCALLUM, Commissioner


DONALD R. MURPHY, Commissioner

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