

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 GEORGE W. CROWNHART, *
 *
 Complainant, *
 *
 v. *
 *
 Executive Director, STATE *
 INVESTMENT BOARD, *
 *
 Respondent. *
 *
 Case No. 87-0170-PC-ER *
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 * * * * *

DECISION
AND
ORDER

This matter was filed on December 2, 1987, as a complaint of retaliation under the "whistleblower law," Subch. III., Ch. 230, Stats. The complaint states, in part:

1. Complainant George W. Crownhart (hereinafter the "Complainant"), since October 23, 1972 and at all times material hereto, was and is a classified civil service employee of the Wisconsin Investment Board (hereinafter referred to as the "Board") with permanent status in class.

* * *

5. The Executive Director of the Board is an appointing authority pursuant to s. 230.05, Stats. and is the Complainant's immediate supervisor.

The complainant was advised that his complaint raised a jurisdictional issue based on the definition of the word "employee" as used in the whistleblower law and was provided an opportunity to file arguments.

The position of Executive Director of the Investment Board is listed in s. 20.923(4)(f)5, Stats., and, pursuant to that subdivision, is included in executive salary group 6.

The definition of the term "employee" as it is used in the whistleblower law is found in s. 230.80(3), Stats.:

(3) "Employee" means any person employed by any governmental unit except:

* * *

(b) A person who is, or whose immediate supervisor is, assigned to an executive salary group under s. 20.923.

Only persons who meet the definition of "employee" may file a complaint of whistleblower retaliation:

An employee who believes that a supervisor or appointing authority has initiated or administered, or threatened to initiate or administer, a retaliatory action against the employee in violation of s. 230.83 may file a written complaint with the commission....S. 230.85(1), Stats. (emphasis added)

Because the position of complainant's immediate supervisor is within an executive salary group, complainant is ineligible to file a complaint under the whistleblower law.

ORDER

This matter is dismissed for lack of subject matter jurisdiction.

Dated: January 13, 1988 STATE PERSONNEL COMMISSION

KMS:rcr
RCR03/2


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner

Parties:

George Crownhart
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Madison, WI 53705

Marshall Burkes
Executive Director
State Investment Board
121 E. Wilson St., 2nd Floor
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