

STATE OF WISCONSIN

PERSONNEL COMMISSION

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ROY O. KUSCHEL,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 90-0190-PC

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RULING ON
MOTION
TO DISMISS

This matter is before the Commission on respondent's motion to dismiss.

At a status conference, conducted by telephone, on September 12, 1990. The parties established the issue for hearing as:

Whether respondent's decision reallocating appellant's position to Media Technician 3 (PR 6-13), area of specialization communication arts, instead of Media Technician 3 (PR 6-13), area of specialization television operations/maintenance, was correct.

After the issue was agreed upon, respondent moved to dismiss for lack of subject matter jurisdiction. A schedule for written jurisdictional objections and briefs was set. The following discussion and ruling is based on respondent's written jurisdictional objection and briefs submitted by both parties.

This dispute is over the appropriate designation of area of specialization for appellant's position. Respondent argues that areas of specialization are unofficial descriptive titles, having no effect on personnel actions involving official class titles of position and consequently not appealable to the Commission.

Section 230.44(1)(b), Stats., authorizes the Commission to hear appeals of actions taken by respondent under §230.09(2)(a) or (d), Stats. The former subsection of the statutes -- §230.09(2)(a) -- authorizes respondent to allocate each position in classified civil service to an appropriate class. Also, this section authorizes

respondent to reallocate and reclassify positions. Pursuant to §ER 2.03, Wis Adm. Code, as an action under §230.09(1)(b), Stats., respondent is authorized to establish class titles and subtitles for each class. This section of the code also makes it clear that other titles may be used by appointing authorities as working titles but have no effect on personnel processes.

The focus of this dispute, area of specialization, is addressed in §ER 2.04(1), Wis. Adm. Code, as follows:

Class specifications define the nature and character of the work of the class through the use of any or all of the following: definition statements; listings of areas of specialization; representative examples of work performed; allocation of patterns of representative positions; job evaluation guide charts, standards or factors; statement of inclusion and exclusion; and such other information necessary to facilitate the assignment of positions to the appropriate classification. (emphasis supplied)

Terms denoting area of specialization are used as a means of describing the work in a class. Neither §230.09(2)(a) or (d), Stats. are concerned with areas of specialization. Section 230.09(2)(a) is concerned with allocation, reallocation and reclassification of a position. Section 230.09(2)(d) is concerned with regrading the incumbent of a position. Accordingly, the Commission finds no authority to consider the question of the appropriate area of specialization designation for appellant's position.

Appellant's argument that area of specialization has been, previously, the subject of appeals before the Commission is factually incorrect. The cases he cites in support of his argument, Case Nos. 90-0192-PC and 90-0208-PC, involve the question of the appropriate class level of each position.

For the above reasons respondent's motion for dismissal is granted.

ORDER

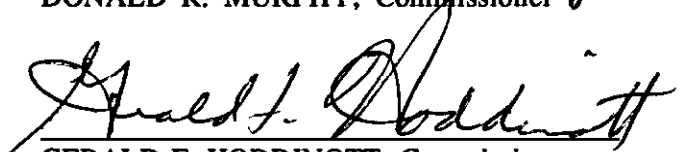
This appeal is dismissed because the Commission lacks subject matter jurisdiction.

Dated: November 16, 1990 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

DRM/gdt/3


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

Parties:

Roy Kuschel
UW Stevens Point
Telecommunication Dept.
Stevens Point, WI 54481

Constance Beck
Secretary, DER
P.O. Box 7855
Madison, WI 53707