

ROWENA BUCKLEY,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 91-0018-PC

DECISION
AND
ORDER

This matter arises from a decision to deny the appellant's request to convert her position from the classified service to designation as an academic staff position. The respondent filed a motion to dismiss for lack of subject matter jurisdiction. The parties have filed briefs.

It is undisputed that on January 11, 1991, Mr. Cornell Johnson, DER Classification and Staffing Analyst, denied the appellant's request to convert her position at UW-Stout from the classified service to an academic staff position. Pursuant to §36.09(1)(i), Stats:

(i) Upon recommendation of the president [of the UW System] and the administrator of the division of merit recruitment and selection in the department of employment relations, the board [of regents] and the secretary of employment relations shall jointly adopt general policies governing the designation of positions to be exempt from the classified service as academic staff as defined in s. 36.15(1)(a) and (b). No position in the classified service may be designated as an academic staff position under the general policies unless the secretary of employment relations approves the designation.

The basis for the Commission's jurisdiction over appeals from personnel transactions is found in §230.44(1), Stats. The only paragraph in that subsection which relates to decisions of the Secretary of the Department of Employment Relations [DER] is §230.44(1)(b), Stats., grants the Commission the authority to hear an:

(b) Appeal of a personnel decision under s. 230.09(2)(a) or (d) or 230.13 made by the secretary or by an appointing authority under authority delegated by the secretary under s. 230.04(1m).

The listed provisions relate to allocation, reclassification, reallocation and regrade transactions as well as decisions to maintain closed personnel records. None of the statutory references relate to decisions by DER designating positions as academic staff versus classified civil service under §36.09, Stats., thereby indicating a legislative intent that the Commission not have the authority to review such transactions.¹


ORDER

This matter is dismissed for lack of subject matter jurisdiction.

Dated: May 1, 1991 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

KMS:kms
k:d:temp-5/91 Buckley


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

Parties:

Rowena Buckley
Personnel Office
UW-Stout
Menomonie, WI 54751-0790

Jon E. Litscher
Secretary, DER
P. O. Box 7855
Madison, WI 53707

¹In her brief, the appellant asks that the Commission give her "suggestions on a course of action to pursue this issue." The Commission notes that the appellant may wish to consult with private counsel to determine what options may be available to her.