

SOUTH DAKOTA DEPARTMENT OF LABOR & REGULATION  
DIVISION OF LABOR AND MANAGEMENT

JEANETTE STEARNS,

HF No. 1 G, 2012/13

Grievant,

v.

DECISION

SIMPLY SERVICE FEDERAL  
CREDIT UNION,

Respondent.

This matter came before the Department of Labor & Regulation when Grievant, Jeanette Stearns, filed a Petition for Hearing on Grievance dated August 28, 2012, pursuant to SDCL 3-18-15.2. The case was considered by Donald W. Hageman, Administrative Law Judge. The issue of the jurisdiction was considered by the Department sua sponte.

***Background:***

The facts of this case as reflected by the pleadings are as follows:

1. Jeanette Stearns (Stearns) was employed by Simply Service Federal Credit Union (Credit Union).
2. Credit Union is a federal instrumentality chartered under the authority of the Federal Credit Union Act.
3. Employer terminated the employment of Claimant on August 27, 2012.
4. Claimant filed a Petition for Hearing on Grievance dated August 28, 2012, with the Department of Labor and Regulation.

***Jurisdiction:***

The Department's authority to review grievances is granted by SDCL 3-18-15.2. That provision states in part:

If, after following the grievance procedure enacted by the governing body, the grievance remains unresolved ... it may be appealed to the Department of Labor and Regulation...

SDCL 3-18-15.1. 1 (emphasis added). SDCL defines the term, "grievance" as used in SDCL Ch. 3-18. That statute states:

The term "grievance" as used in this chapter means a complaint by a public employee or group of public employees based upon an alleged violation, misinterpretation, or inequitable application of any existing agreements, contracts, ordinances, policies, or rules of the government of the State of South Dakota or the government of any one or more of the political subdivisions thereof, or of the public schools, or any authority, commission, or board, or any other branch of the public service, as they apply to the conditions of employment. Negotiations for, or a disagreement over, a nonexisting agreement, contract, ordinance, policy, or rule is not a "grievance" and is not subject to this section.

3-18-1. (emphasis added). SDCL 3-18-1 states in pertinent:

The words "public employees" as used in this chapter shall mean any person holding a position by appointment or employment in the government of the State of South Dakota or in the government of any one or more of the political subdivisions thereof, or in the service of the public schools, or in the service of any authority, commission, or board, or any other branch of the public service.

SDCL 3-18-1. Federal Credit unions are not a branch of the State of South Dakota or one of its subdivisions, nor are they involved in public service by the state as contemplated by this statute. Consequently, the Department has no authority to consider this matter.

Federal Credit Unions are federal instrumentalities chartered under the Federal Credit Union Act. As an employee of a Federal Credit Union, Stearns' remedy for her complaints lies with the National Credit Union Administration, and, following exhaustion of her administrative remedies, she would have access to the Federal Court of Appeals. Federal Credit Union Act, § 206(g) (1, 4-6), (j) (1, 2), as amended, 12 U.S.C.A. § 1786(g) (1, 4-6), (j) (2). See, Montford v. Robins Federal Credit Union, 691 F.Supp. 347, M.D.Ga., July 06, 1988.

***Conclusion:***

For the reasons discussed above, the Department of Labor & Regulation lacks subject matter jurisdiction in this matter. Therefore, this case is dismissed with prejudice.

Dated this 27th day of September, 2012.

/s/ Donald W. Hageman  
Donald W. Hageman  
Administrative Law Judge