IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
WESTERN DIVISION

FILED

APR 01 2009
Tennessee Claims Commission
CLERK'S OFFICE

GRADY BROWN,

Claimant

v. Claim No. 20-081-003

STATE OF TENNESSEE,

Defendant.

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ORDER OF DISMISSAL

This matter is before the Commission of the Defendant's *Motion to Dismiss* under Tenn. R. Civ. P. 12.02(1) and (6) for lack of subject matter jurisdiction. However, because Claimant has presented matters outside of the pleadings, the Commission will treat the motion as one for summary judgment.

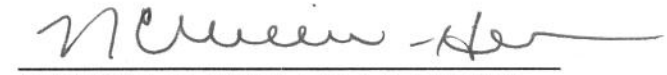
Pursuant to §9-8-307(a)(1)(L), Tenn. Code Ann. (Supp. 2008), the Commission has jurisdiction over "actions for breach of a written contract between the claimant and the state which was executed by one (1) or more state officers or employees with authority to execute the contract." Claimant, a former employee of the Tennessee Department of Environment and Conservation, avers that he was not

compensated for work he performed at a higher level of classification than the level at which he was employed. However, the Claimant has failed to present evidence that of a written contract signed by a state officer with the authority to execute it.

Furthermore, to the extent that the Claimant may be asserting the existence of an implied provision or one that was part of an oral contract, the Commission does not have jurisdiction over claims involving breach of oral or implied contracts.

Since the Commission previously dismissed Claimant's claims pursuant to §9-8-307(a)(1)(N) for negligent deprivation of statutory rights and §9-8-307(a)(1)(K) for workers' compensation benefits, Defendant's motion to dismiss this claim and/or for summary judgment must now be **GRANTED**. Claimant's claim is hereby **DISMISSED**.

IT IS SO ORDERED.



NANCY C. MILLER-HERRON
Commissioner

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded via first-class mail, postage prepaid, this 1st day of April, 2009, to the following:

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MARSHA RICHESON, Clerk
Tennessee Claims Commission