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 MARLENE HEISER, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 WILBUR J. SCHMIDT, SECRETARY )  
 DEPARTMENT OF HEALTH AND )  
 SOCIAL SERVICES, and )  
 C. K. WETTENGEL, DIRECTOR )  
 STATE BUREAU OF PERSONNEL, )  
 )  
 Respondents. )  
 # 566 )  
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**OFFICIAL**

OPINION

and

ORDER

Before: AHRENS, Chairman; JULIAN and STEININGER,  
Board Members.

STEININGER, Board Member, for herself, AHRENS and JULIAN.

This is an appeal, pursuant to section 16.03, Wis. Stats., of the Oral Board Examination held on October 2, 1972, for the position of Disability Claims Adjudicator 3 (SR 1-12). The appellant alleges that the Oral Examining Board was improperly constituted and that she was incorrectly scored.

The burden of proof in this case is upon the appellant who must prove by a preponderance of the evidence to a reasonable certainty that the constitution of the Examining Board and/or her individual rating were improper, and that the examination should be declared invalid.<sup>1/</sup>

For the reasons stated under the heading "Opinion," the charges of the appellant are dismissed and the results of the examination are upheld. Under the heading "Facts," we find the facts as we are required to do by 227.13, Wis. Stats.

FACTS

1. The appellant, Marlene Heiser, is and was at the time of this examination a permanent classified state employe in the Bureau of Social Security Disability Insurance, Division of Vocational Rehabilitation, Depart-

1/  
Civil Burden of Proof.

ment of Health and Social Services, with the position classification and title of Disability Claims Adjudicator 1 (SR 1-09).

2. Five vacancies existed in this Bureau with the classification of Disability Claims Adjudicator 3 (SR 1-12); and a certification request had been submitted to the Bureau of Personnel in order that these vacancies might be filled. There was no existing, valid eligible list for this position; and so it was necessary that an examination be held to establish a valid list.

3. Pursuant to section 16.03 (2), Wis. Stats., this was a delegated examination, with the Department of Health and Social Services having responsibility for the conduct of such exam.

4. As the position of Disability Claims Adjudicator 3 requires work experience in the fields of either Quality Assurance, Continuance/Cessation or Reconsideration of disability claims, the Department of Health and Social Services requested that this should be a competitive promotional examination and applications be accepted only from qualified permanent classified employes within the Division of Vocational Rehabilitation, as provided by section 16.15, Wis. Stats.

5. The departmental Promotional Announcement for this examination set the application deadline for September 18, 1972. The Announcement described the duties of the position, the minimum training and experience requirements, the possible forms the actual examination might take (Oral Board, Written, Rating of Seniority and Experience, etc.), and other such informational material. Interested and qualified employes were instructed to submit their applications to the Personnel Office of the Division of Vocational Rehabilitation.

6. Thirteen applications were received for this examination: ten were accepted and scheduled for an Oral Board Examination while three were rejected because they did not possess the minimum training and experience requirements as stated on the Examination Announcement and the class specifications.

7. The Oral Board Examiners included Eugene Haskins who had been employed for approximately four months in the Bureau of Social Security Disability Insurance in 1968, and, as a result of said employment was casually acquainted with three of the candidates who participated in the examination.

8. The Oral Board Examination was held October 2, 1972, in Room 720, Wilson Street State Office Building, Madison, Wisconsin. All ten candidates appeared for the examination and were interviewed and rated and ranked by all three Oral Board Members.

9. After all candidates had appeared before the Oral Board, the Board Members averaged their individual rankings of the candidates and then, as a group, arrived at numerical grades for each individual participant. These numerical grades (except for the possible addition of veterans preference) were weighted as 100 percent of the examination rating and constituted the final grade.

10. Candidates were notified of their final ranking and their numerical grades by mail. The appellant was ranked eighth in a field of ten candidates and was assigned a numerical grade of 80.00.

11. After the initial notices of ranking and score were sent out, it was determined that a Rating of Seniority and Experience had not been included in the computation of the final scores as is required by Wis. Adm. Code section Pers. 6.06(2) Rules of the Personnel Board.

12. The scores of the candidates were therefore recomputed, with the Oral Board's score being weighted 90 percent and the Rating of Seniority and Experience being weighted ten percent, as required by this rule and the Director's Manual.

13. The appellant was notified on or about October 2, 1972, that her corrected numerical grade was 79.60 and that her rank of 8 had remained unchanged.

14. The appellant filed an appeal of the examination result in a letter dated October 9, 1972, to C. K. Wettengel, which was received October 11, 1972. Another letter, undated, addressed to the Personnel Board, was received on October 12, 1972.

OPINION

Jurisdiction is present. Sections 16.05(1)(e) and 16.05(2), Wis. Stats.

We dismiss the charges of the appellant that the Oral Examining Board was improperly constituted and/or that she was improperly rated because she has not proved these allegations to be true as is required by law.

The selection of Oral Examining Board Members was in accordance with section 16.12(3), Wis. Stats. While it is true that one Member of the Oral Board was acquainted with a number of candidates for these positions, no showing was made that these acquaintanceships were such that that Board Member would be unable to fairly and impartially rate these applicants' suitability for the positions.

The Oral Examining Board conducted all examination sessions and considered all candidates in a significantly parallel fashion and completed their individual and collective ranking and ratings of the candidates in a fair and equitable manner.

Both the unweighted Oral Board Examination grade and the corrected grade which gave the required weight to seniority and experience ranked the candidates the same way and same order, and only the numerical scores were changed. This was an administrative error and in no way adversely affected the appellant.

All Members of the State Personnel Board who heard testimony in this case and participated in the decision therefore conclude that the appellant has failed to show that her allegations are valid.

CONCLUSIONS OF LAW

We, therefore, conclude as required by 227.13, Wis. Stats., that:

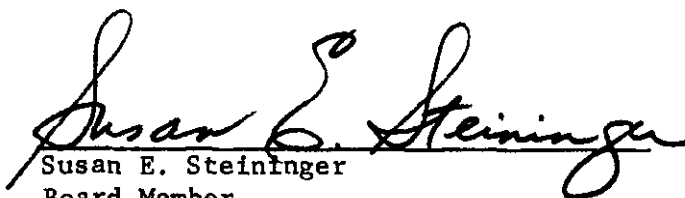
1. We have jurisdiction to hear this appeal.
2. The appellant has failed to show that her allegations are valid.
3. The examination is upheld.

ORDER

For the reasons stated above and the entire record of this case,  
IT IS ORDERED that the appellant's appeal from this action of the  
respondent be dismissed on its merits.

Entered this 9th day of June, 1973.

BY THE PERSONNEL BOARD,

  
Susan E. Steininger  
Board Member