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UNIVERSITY OF WISCONSIN **
on behalf of FLORENCE F. **
TIMM and HELEN HOHLSTEIN, **

OFFICIAL

Appellants, **

vs. **

ORDER

C. K. WETTENGEL, DIRECTOR **
STATE BUREAU OF PERSONNEL, **

Respondent. **

#573

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The Board having entered its Findings of Fact and Conclusions of Law in this matter, hereby makes and files the following Order.

1. It is ordered that the delegated reclassification action taken on behalf of the Director of the Bureau of Personnel by the Personnel Department of the University of Wisconsin was authorized under the existing statutes and is hereby ratified, subject to the right of the respondent to review and reallocate classified positions on a continuing basis.

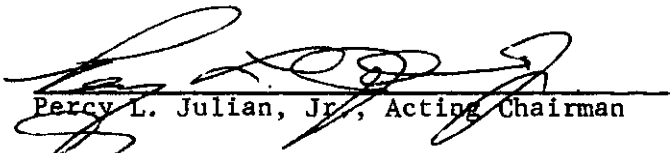
2. That the salary adjustment from \$522 per month to \$548 per month, effective August 6, 1972, was authorized by the delegated reclassification and is hereby affirmed.

3. It is ordered that the respondent's denial of payment of any further sums to the grievants herein be and the same is hereby ratified and affirmed.

4. It is ordered that the reclassification procedures as authorized by statute and Board Rule does not authorize the grievants herein to any further wage adjustment, and their appeal from the respondent C. K. Wettengel's denial of additional wage payments or lump sum settlement in lieu thereof be and the same is hereby dismissed on its merits.

Dated at Madison, Wisconsin this 11th day of June, 1973.

STATE PERSONNEL BOARD, By


Percy L. Julian, Jr., Acting Chairman

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UNIVERSITY OF WISCONSIN **
on behalf of FLORENCE F. **
TIMM and HELEN HOHLSTEIN, **

OFFICIAL

Appellants, **

O P I N I O N

vs. **

(FINDINGS OF FACT
AND

C. K. WETTENGEL, DIRECTOR **
STATE BUREAU OF PERSONNEL, **

CONCLUSIONS OF LAW)

Respondent. **

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This matter was heard by the State Board of Personnel on April 18, 1973, in Room 1120-D State Office Building, 1 West Wilson Street, Madison, Wisconsin, with the following Board members present: Percy L. Julian, Jr., Acting Chairman; Susan Steininger; and Charles Brecher. William Ahrens and John Serpe were absent. The appellant, University of Wisconsin, appeared by David J. Hanson, Attorney, Assistant to the Chancellor, 161 Bascom Hall, University of Wisconsin, Madison, Wisconsin, together with Rohland Milhaupt; and the respondent, C. K. Wettengel, Director, State Bureau of Personnel, appeared by D. J. Sterlinske, Attorney, Department of Administration, 1 West Wilson Street, Madison, Wisconsin. The Board having heard the evidence, examined the exhibits and the transcript of the testimony of the parties, makes and files the following:

FINDINGS OF FACT

1. Florence Timm and Helen Hohlstein were employed by the University of Wisconsin, Madison Campus, and classified as Building Maintenance Helper 1 (SR 3-02).

2. Both Ms. Timm and Ms. Hohlstein were members of Local 171, Wisconsin State Employes Union, ASFCME. Both appellants Timm and Hohlstein operated manually operated elevators in the Home Economics and Science Hall Buildings on the university campus. Both elevators are used basically for the transportation of personnel.

3. On July 18, 1972, appellant Timm filed a union contractual grievance, complaining of her reclassification at the BMH 1 level. As the result of filing this grievance, a delegated reclassification to BMH 2 was processed by the Personnel Office at the University of Wisconsin to become effective August 6, 1972. Appellant Hohlstein was likewise reclassified to the class of BMH 2 although she had not filed a grievance.

4. After the effective date of the reclassification, the salary of each grievant was adjusted from the current salary of \$522 per month (SR 3-02) to \$548 per month (SR 3-04), being the Permanent Status in Class Minimum (PSICM) rate for permanent non-probationary employes in salary range 3-04.

5. The class specifications for the Building Maintenance Helper 1 that were in effect at the time of this classification characterize the duties of those positions to routine light manual labor associated with cleaning and maintenance of state buildings. At the BMH 2 level, the duties generally consist of heavier manual work including wet mopping, waxing, furniture moving and occasional outside grounds work.

6. Duties listed on class specifications are not all inclusive but merely illustrative in nature. Therefore, the inclusion of elevator operation in the BMH 2 specifications was included originally in reference to the elevator operation at the two level and is associated with and part of the operation of freight elevators and the movement of furniture and equipment and supplies.

7. There is no position classification of Elevator Operator within the state classified service; and except for two or three instances, all elevators are electronically operated. The operation of a manual elevator for the purpose of transportation of personnel is routine light manual labor requiring minimal skill, effort and responsibility.

8. Both grievants filed sex discrimination complaints with the Equal Rights Division of the Department of Industry, Labor and Human Relations in August of 1972. After the filing of such grievances, a conciliation conference was held between the complainants and university personnel. Although the interpretation of the Bureau of Personnel's class specifications was involved, the respondent, C. K. Wettengel, was not notified of such conference. During this conciliation conference, representatives of the University of Wisconsin tentatively agreed to pay to each of the grievants the sum of \$1,678.96, which was arrived at as being the difference between BMH 1 and BMH 2 level wages for a period of time prior to the effective date of the reclassification of the grievants.

9. This proposed settlement was submitted to respondent C. K. Wettengel, by letter dated September 12, 1972, requesting his approval of this proposed settlement.

10. Personnel Board Rules, Pers. 3.03(1), Wis. Adm. Code provides "Appointing officers shall give notice in writing to the director of material changes of a permanent nature in the duties and responsibilities of positions. If the facts warrant, the director shall reclassify or otherwise reallocate the position. Normally, filled positions will not be reclassified until the incumbents have carried the responsibilities for a period of at least 6 months."

11. C. K. Wettengel, respondent, refused to concur in the payment of any monies to the grievants in that it constituted retroactive pay which was prohibited by Article IV, Section 26, Wis. Const., and that under the existing reclassification process, no pay adjustments are authorized by Board or Director's Rule. Pers. 5.03(2)(a), Wis. Adm. Code, provides "Salary increases or decreases resulting from position reallocation or reclassification shall normally be effective at the beginning of the pay period following completion of the transaction." Pers. 5.03(8), Wis. Adm. Code, provides in cases of reclassification or reallocation "Except for action in accordance

Board does not by this opinion preclude itself from the future consideration of this question under circumstances in which such disposition might seem proper. In the final determination of this matter, however, it was not

CONCLUSIONS OF LAW

1. The reclassification of the grievants, Florence Timm and Helen Hohlstein, effective August 6, 1972, from the classification of Building Maintenance Helper 1 to Building Maintenance Helper 2 was pursuant to the authority of section 16.03(2) as a delegated function from the Director of the State Bureau of Personnel to the Personnel Department at the University of Wisconsin, Madison.

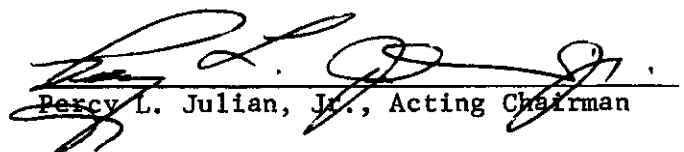
2. Under the existing statutes and Personnel Board Rules in effect at the time of such reclassification, the adjustment of salary of both grievants from \$522 per month to \$548 per month, effective August 6, 1972, was authorized by the compensation plan in effect at that time.

3. Wis. Adm. Code, Board Rules, Pers. 3.03 authorizes a reallocation and reclassification of positions within the classified service and requires filled positions are not eligible for reclassification until the position incumbents have carried the responsibilities for a period of at least 6 months. The compensation provisions, Pers. 5.03, authorizes compensation changes to become effective at the beginning of the pay period following the completion of the reclassification action and subparagraph 8 thereunder prohibits retroactive salary increase or decrease.

4. That the grievants' appeal to the Personnel Board be and the same is hereby dismissed on its merits.

Dated at Madison, Wisconsin this 11th day of June, 1973.

STATE PERSONNEL BOARD, By


Percy L. Julian, Jr., Acting Chairman

Members Ahrens and Serpe did not participate in the hearing nor decision.