
JOHN A. RAUP,
Appellant,

v.

C. K. WETTENGEL, Director,
State Bureau of Personnel,
Respondent.

Case No. 73-60

JOHN A. RAUP,
Appellant,

v.

NORMAL CLAPP, Secretary,
Department of Transportation,
Respondent.

Case No. 73-179

Before: JULIAN, STEININGER, and WILSON

OPINION

I. Nature of the Case

Pursuant to a survey conducted by the Bureau of Personnel, the Right of Way Agent series was abolished and a new series Real Estate Agents was created. Appellant's position was subsequently reallocated from Right of Way Agent 2 to Real Estate Agent 2. From this reallocation action he appealed.

II. Facts

Appellant is a permanent employee who began working for the Department of Transportation as an Engineering Aide 1 in April, 1959. After various job changes, his position was reclassified to Right of Way Agent 2 in 1968 or 1969.

OPINION AND ORDER

OFFICIAL

As a result of a survey conducted by the Bureau of Personnel, the Right of Way Agent series was abolished and the Real Estate Agent series was created. Appellant's position was reallocated to Real Estate Agent 2. The effective date of the reallocation was April 15, 1973. He received notice of such action on April 24, 1973. Appellant sent a letter appealing the reallocation action, which was received by this Board's office May 3, 1973.

Subsequently, Appellant filed a request for reclassification which was denied on October 16, 1973. He filed the first step of a grievance on October 25, 1973. This step plus the second and third steps were denied. The last step was denied December 5, 1973. Appellant filed an appeal received on December 13, 1973 by this Board's office. The appeals from the reallocation action and from the third step of the grievance were consolidated for hearing and decision.

Appellant has performed a variety of duties since his position was classified a Right of Way Agent 2. These duties included: appraisals, appraisal review, description records, negotiations, relocation orders, and utilities back-up. The main part of his efforts has been in appraisal work.

Two position descriptions for Appellant's position were developed, one by Appellant and one by Jack Curtis, Real Estate Supervisor, who is Appellant's immediate supervisor. Neither signed the position description developed by the other.

III. Conclusion

The Personnel Board has jurisdiction over this appeal under Section 16.05 (1) (f), Wis. Stats.. Furthermore, the appeal was timely filed as required under Section 16.05 (2), Wis. Stats..

The Reallocation of Appellant's Position
From Right of Way Agent 2 to Real Estate
Agent 2 Was Proper.

Appellant's major contention is that his position should be classified as a Real Estate Agent 3. He bases this on the claim that the duties and responsibilities which he has had to perform over the past number of years are found to be within the scope of this higher classification.

Appellant has performed a great variety of tasks including some which fall within the Real Estate Agent 3 classification. However, those duties which do fall within the latter category have been spread over a number of years and have not involved the majority of his time.

The Bureau of Personnel has a policy that a position description developed for a reclassification or reallocation action will look to the duties and responsibilities of the position covered by the six months prior to the action. This policy is based in part on Administrative Code Section Pers. 3.03 (2) which states:

Normally, filled positions will not be reclassified until the incumbent has carried the duties and responsibilities for a period of at least 6 months.

This provision sets out a minimum period that an employee can be in a position before a reclassification or reallocation can take place. Therefore, a position description must cover at least six months. The maximum period covered is determined by a reasonableness standard. (December 17 and 19, 1974 Hearing Transcript, hereinafter cited as Tr., P. 218.) If an employee performs work which is easily

completed within a few days, a few weeks, even a month or so, six months would probably be sufficient to determine the scope of difficulty and responsibility involved. If, however, the work entails projects which run for months at a time, then a broader view is needed in order to prepare a position description which accurately reflects the employee's duties and responsibilities.

In the instant appeal, Respondent based his decision against reallocating Appellant's position on a survey of his duties over the eighteen months prior to the request, that is, October, 1972. (Tr., P. 230.) This was in part because of the type of duties involved. Also for Appellant's position to be reclassified to a Real Estate Agent 3 from Real Estate Agent 2, he must have been in the latter position for a minimum of eighteen months. (Respondent's Exhibits No. 8 and 9.)

This amount of time was reasonable. If Appellant is indeed performing at the Real Estate Agent 3 level, this period of time would reflect that fact as well as indicate that he is more than likely to continue performing at that level.

The definition of Real Estate Agent 3, found in the class specification, states in pertinent part:

This is advanced professional real estate work performed in connection with state improvement projects. The employes in this class function as a real estate specialist responsible for handling the most complex situations in the area of appraisal and negotiation, lands management and/or relocation assistance.

The definition of Real Estate Agent 2, found in the class specification, states in part:

This is responsible professional real estate work performed in connection with state improvement projects.

Employees in this class function at the full performance level in a major real estate program, such as appraisal and negotiation, lands management, and/or relocation assistance. Work at this level can be differentiated from that of the preceding level, by the variety and complexity of real estate activities performed and the independence of action in performing these activities.

The difference between the two classifications is basically the degree of complexity of the assignments. The term complex has been defined to include the following variables: the dollar amount of the property; what is the highest and best use of the property; whether the transaction involves severance damages; whether it is special use property; whether there have been few or no comparable sales of property; whether it is income property; and whether the property is located in a low depressant market area. (Tr., P. 166-167.)

Appellant has performed a great variety of tasks both complex and routine since the time his position was reclassified to Real Estate Agent 2. However, if we look only to the duties and responsibilities which he has performed within the last eighteen months, then his position is properly classified as Real Estate Agent 2.

Appellant admitted that the position description developed by Respondent (Respondent's Exhibit No. 8) was reasonably accurate within a three year time frame. (Tr., P. 76.) The complexity of tasks reflected in that position description is within the scope of the Real Estate Agent 2.

Even looking back to 1968, however, we conclude that Appellant was performing at the Real Estate Agent 2 level for the majority of

Page 6
Raup v. Wettengel - 73-60
Raup v. Clapp - 73-179

of his time. Appellant is undoubtedly a very capable employee. But the record reflects that the majority of his time was spent on tasks within his present classification and the duties and responsibilities which take up a majority of the employee's time determine the classification of his position. (Tr., P. 221.)

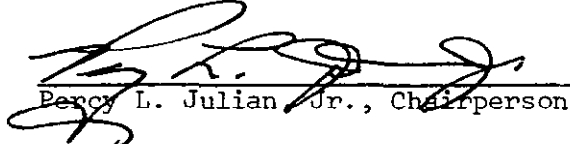
Therefore, we conclude that Appellant's position was properly classified as Real Estate Agent 2.

ORDER

IT IS HEREBY ORDERED that Respondent's decision is affirmed.

Dated August 29, 1975.

STATE PERSONNEL BOARD


Percy L. Julian Jr., Chairperson