

The parties have stipulated to the following issue:

"Is Appellant's position properly classified as Engineering Technician 3 or Engineering Technician 4?"

Appellant's duties and responsibilities are approximately as follows:

- 33 1/3% Provides guidance and direction to Milwaukee County personnel concerning winter highway maintenance on the night shift. He works full time at this function for the four winter months. During this period he equally shares responsibilities with two other positions both classified at the Engineering Technician 5 level.
- 20 % Project engineer on special projects, on which he coordinates and oversees all aspects of the work performed on the site.
- 20% Provides guidance and supervision to County personnel concerning plantings, roadside weed control, ground cover seeding and dead plant removal.
- 26 2/3% Appellant's remaining time is spent on preparing reports, records, maintenance administration and temporary assignment to other sections when necessary. Additionally, Appellant normally is available on an "on call" basis 24 hours a day to respond to emergencies.

Conclusions of Law

In cases such as this, the burden is on the Appellant to prove that the Director acted incorrectly in denying the requested reclassification.

Before addressing the merits of this appeal, the board feels it is appropriate to discuss the denial of the reclassification request in the July 1, 1976, memorandum. The memorandum purports to deny the request primarily upon "the allocation pattern of positions in the Maintenance area . . ." and the reasons referred to therein. The factors alluded to in the memorandum are not the principal factors to be considered in assessing a reclassification request. The allocation pattern is a guide and not an absolute determinant in a classi-

fication decision. Classification questions are properly resolved by a weighing of the actual duties and responsibilities performed by the employee, in comparison to the applicable standards.

The July 1, 1976, memorandum is devoid of any analysis of the responsibilities of duties performed by Appellant, and as such is not a complete response to Appellant's reclassification request.

Pursuant to the issue stipulated to by the parties to this appeal, the Board will now address the question of Appellant's proper classification as between Engineering Technician 3 and Engineering Technician 4.

In the Maintenance area, the Engineering Technician 3 and 4 levels are primarily distinguished by the level of responsibility attached to the position.

Appellant spends 33 1/3% of his time providing guidance and supervision to County employees concerning winter highway maintenance for Milwaukee County. His work in that area includes working at that specific function full time for four months of the year. During that period he equally shares responsibilities with two other employees, both classified at the Engineering Technician 5 level.

Appellant spends 20% of his time as a project engineer on special projects, at which time he coordinates and oversees all aspects of the on the site work performed under contract. The project engineer work performed by Appellant falls within level 4 work. Appellant was on a 24 hour a day "on call" basis to handle any emergency maintenance situation which might arise.

Respondent has asserted that Appellant does not have level 4 responsibility primarily because Appellant does not have one specific ongoing assignment. Respondent concedes that various jobs performed by Appellant fall within Engineering Technician 4 levels, but asserts that without any specific ongoing responsibility Appellant may not be reclassified to Engineering Technician 4.

The Board does not agree with Respondent's assertion as to the need for a specific ongoing responsibility. In the Position Standards for the Engineering Technician Series, it is stated:

"For a period of time specific high level duties may be performed as part of a lower level classification, or lower level duties as part of a higher level classification. This will not affect the classification of the position until 50% or more of the time is spent on duties at either a higher or lower level on a continuing basis." p. 2, III. Typical Allocation Patterns.

Thus, the position standard recognizes that an employe may well be assigned a variety of different responsibilities at different levels of complexity.

After reviewing the evidence presented, the Board concludes that Appellant spends more than 50% of his time on tasks of the Engineering Technician 4 level.

For the reasons set out herein, we conclude the director by his delegee erred in denying appellant's reclassification request, and that that decision must be rejected.

We reserve a decision on the question of back pay and benefits pending the decision of the Dane County Circuit Court on the petition for review of the Board's decision in Van Laanen v. Knoll, 74-17 (3/23/76), inasmuch as the disposition of that matter may resolve or help resolve legal questions existent in this area. At the time of the promulgation of this proposed decision, the hearing in circuit court is scheduled for May 23, 1977, before Justice Currie.

Order

The director's decision denying this reclassification request is rejected and this case will be held open for final disposition as set forth above.

Dated _____, 1977 STATE PERSONNEL BOARD

Laurene DeWitt, Chairperson