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LYNNANN KORTRIGHT,
 Appellant,

v.
 Administrator, DIVISION OF
 PERSONNEL,
 Respondent.

Case No. 81-454-PC

* * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal, pursuant to s.230.44(1)(a), Wis. Stats., of the denial by respondent of appellant's request for reclassification of her position from Job Service Assistant 2 (JSA2) to Job Service Assistant 3 (JSA3).

FINDINGS OF FACT

1. At all times relevant to this matter, the appellant has been employed in the classified civil service by the Job Service Division of the Department of Industry, Labor and Human Relations.
2. On November 13, 1981, respondent denied a request for reclassification of appellant's position from Job Service Assistant 2 (PR2-07) to Job Service Assistant 3 (PR2-08). Appellant requested and was granted by respondent a reconsideration of this denial based on a revised position description. On February 19, 1982, respondent upheld its original decision and denied the request for reclassification of appellant's position.
3. The duties and responsibilities of appellant's position are as set forth in Respondent's Exhibit 2, the position description signed by appellant and appellant's supervisor on June 10, 1981. (The subsequent revisions in the position description which formed the basis for the reconsideration request dealt

with changes in the time percentages assigned to specific duties and the deletion of duties related to computerization of data.) These duties and responsibilities include:

- A. Processes Initial Determinations and issues non-controversial initial determinations for Unemployment Insurance programs administered by the agency (UC, UCX, UCFE, Combined, TRA).
 - A1. Proofreads determinations prepared by adjudicators to check for typing errors, for completeness in terms of issue week and effect relative to law section used.
 - A2. Affix appropriate issuance and appeal expiration dates to the determination confirming most recent address and mail copies of the determination to the claimant, employer and administrative office.
 - A3. Post claim record cards as to the issuance of determination and effect.
 - A4. Following established claims processing procedures, authorizes and/or rejects continued benefit payments for UC claims.
 - A5. Responsible for notifying the administrative office of the proper benefit payment holding action to be taken as the result of the initial determination in order to prevent overpayment of benefits.
 - A6. Ascertain, subsequent to the issuance of a determination if additional issues require adjudication, if not, implement in accordance with the proper UI Program procedures, the assembly of monetary data and transmit to AO.
 - A7. Determine effect of determination on claim and adjust records accordingly.
 - A8. Enter lids and overpayments by direct data entry (terminal) as required by present and scheduled further computerization of processing (requires highest field security clearance).
 - A9. Signs and issues non-controversial initial determinations such as requalified quit determinations and lifting of previously imposed suspensions.
- B. Scheduling, clearing, and tallying of disputed claims.
- C. Public contact responsibilities.

- D. Process lower and higher appeal documents.
 - D1. Screens appeal forms for accuracy.
 - D2. Secures legal file, determines pertinency of file materials to appeal, issues and submits appropriate file packet to Hearings office or Commission Review section.
 - D3. Distributes by mail copies of appeals to parties involved.
 - D4. Makes the appropriate record changes and secures the necessary recomputation data in cases where the decision reverses or modifies the prior decision.
- E. Production of typed copy for unemployment compensation initial determinations.
- F. Maintenance of case legal files and overpayment records.
- G. Co-ordinator of miscellaneous activities.
- 4. The definition section of the position standard for the JSA series provides

in pertinent part:

JOB SERVICE ASSISTANT 2

This is job service work of moderate difficulty in the State Job Services programs. Positions allocated to this class perform varied and complex work in accordance with established federal and Job Service program policies and procedures and may assist in training staff in area(s) of specialty. Work at this level is characterized by a significant amount of client or employer contact requiring tact and persuasiveness, direct involvement in a broad range of job service activities, and/or significant consequences of error. Lead workers over a small clerical staff engaged in a complex specialized job service activity are also allocated to this level. Work is performed under general supervision.

JOB SERVICE ASSISTANT 3

This is entry-level paraprofessional or advanced and/or lead level job service work of moderate difficulty in the State Job Service programs. Paraprofessional positions at this level provide direct services to clients and employers or support services to professional staff requiring the exercise of considerable discretion and judgment in tailoring services to meet client/employer needs and Job Service program objectives. Work is performed under general supervision.

Advanced and/or lead positions at this level: 1) perform advanced clerical work characterized by the application of a wide variety of complex, inter-

related Job Service program policies and procedures and may train staff in area of specialty; 2) lead a medium unit of clerical employes engaged in complex, specialized clerical activities; or 3) lead a small unit of clerical employes engaged in complex and varied clerical activities. Clerical work at this level is performed in accordance with established Job Service program policies and procedures. Work is performed under general supervision.

5. For purposes of this appeal, the primary distinction between the duties of a JSA2 and a JSA3 is that the majority of the duties of a clerical position classified as a JSA3 are "advanced clerical" duties.

6. The following duties of appellant's position are advanced clerical duties:

- A1. Proofread determinations prepared by adjudicators to check for typing errors, for completeness in terms of issue week and effect relative to law section used.
- A6. Ascertain, subsequent to the issuance of a determination, if additional issues require adjudication, if not, implement in accordance with the proper UI Program procedures, the assembly of monetary data and transmit to AO.
- A9. Signs and issues non-controversial initial determinations such as requalified quit determinations and lifting of previously imposed suspensions.
- C. Public contact responsibilities.
- D1. Screens appeal forms for accuracy.

7. On the position description submitted as part of the original reclassification request and on the revised position description submitted pursuant to the reconsideration of the reclassification request, advanced clerical duties constituted less than a majority of the duties of appellant's position.

8. On the basis of the information available at the time, respondent was correct in denying the request for reclassification of appellant's position from a JSA2 to a JSA3.

9. Testimony at the hearing indicated that the advanced clerical duties of appellant's position constitute between 38½% and 57% of the duties of the position.

10. A review of positions classified at the JSA3 level indicates that advanced clerical duties generally constitute a clear majority of the duties of such positions.

11. The duties of appellant's position satisfy all the criteria for classification as a JSA2 and are equivalent to the duties of other positions classified at the JSA2 level.

12. Appellant's position is more accurately described by class specifications for a JSA2 than class specifications for a JSA3 and is more appropriately classified as a JSA2.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to s.230.44(1)(b), Wis. Stats.

2. The appellant has the burden of proving that respondent's decision denying the reclassification of appellant's position from JSA2 to JSA3 was incorrect and that appellant's position is more appropriately classified as a JSA3 than a JSA2.

3. The appellant has failed to meet that burden of proof.

4. Respondent's decision denying appellant's request for reclassification was correct and appellant's position is more appropriately classified as a JSA2 than a JSA3.

OPINION

The proper classification of a position involves a weighing of the class specifications and the actual work performed to determine which classification best fits the position. In appeals of reclassification denials, it is frequently the case that the duties and responsibilities of the subject position overlap in some respects both of the class specifications in question. The position is not entitled to reclassification because some aspects of the work involved fall within

the higher class, Kailin v. Weaver and Wettengel, 73-124-PD (11/28/75), particularly if those aspects constitute less than a majority of the total duties and responsibilities of the position.

The class definitions in the position standard for the JSA series indicate that the primary distinction between clerical positions at the JSA2 and JSA3 levels (other than distinctions based on lead work responsibilities) is that the majority of the duties of a clerical JSA3 position are advanced clerical duties. The position standard provides limited guidance as to which duties would be considered advanced clerical in nature. However, evidence presented at the hearing indicated that duties described by items A1, A6, A9, C, and D1 on appellant's position description are advanced clerical duties. These duties involve the relatively independent application of analytical, communication, and decision-making skills which are not required for the performance of the remainder of the duties of appellant's position and are distinguishable on that basis. These other non-advanced clerical duties involve the performance of relatively routine tasks in accordance with established procedures and require little if any exercise of independent judgment.

The breakdown of percentages on both the position description originally submitted as part of the reclassification request (original position description) and the revised position description submitted pursuant to the reconsideration of the reclassification request (revised position description) reveals that advanced clerical duties do not constitute a majority of the duties of appellant's position on either position description. On the revised position description, A1 involves 5% of the duties of appellant's position, A6=5%, A9=10%, and C=15%. No evidence was introduced as to the percentage breakdown for the duties listed under D, but interpolating from evidence presented by the appellant at the hearing, it can be assumed that D1 involves 1-2% or less of the duties of appellant's position.

Thus, advanced clerical duties constitute 36-37% or less of appellant's duties as described on the revised position description. The original position description is identical to the revised position description except that section A (of which subsections 1, 6, and 9 are considered advanced clerical) was assigned a percentage of 35% as opposed to 40% on the revised position description and section F (which is not considered advanced clerical) was assigned a percentage of 10% as opposed to 5% on the revised position description. Again, the evidence does not present a complete breakdown of percentages. However, an overall comparison of the two position descriptions indicated that advanced clerical duties comprise an even smaller percentage of the total duties on the original position description than on the revised position description and it is therefore reasonable to conclude that less than 36-37% of the duties on the original position description were advanced clerical in nature. The information contained on the original position description and in the revised position description was relied upon by respondent in reaching its decision on the reclassification request. Since advanced clerical duties did not constitute a majority of the duties of appellant's position on either position description, respondent was correct in denying the request for reclassification of appellant's position.

The subissue in this appeal involves whether appellant's position is more appropriately classified at the JSA2 or JSA3 level. Testimony by appellant's supervisor at the hearing indicated that advanced clerical duties (A1, A6, A9, C, and D1 on appellant's position description) actually constituted between 38½ and 57% of the duties of appellant's position. Since this evidence does not clearly indicate whether advanced clerical duties constitute a majority of the duties of appellant's position, it is appropriate to review other positions at the JSA2

and JSA3 levels to assist in determining the classification which best fits appellant's position.

Applying the same criteria as applied in relation to appellant's position for purposes of determining those duties which are advanced clerical in nature, it is possible to draw the following conclusions regarding those JSA3 positions for which enough evidence was presented to make a meaningful comparison to appellant's position:

1. Milwaukee North Adjudication Clerk - JSA3 - Respondent's Exhibit 4:

This position and appellant's position are essentially equivalent except for the fact that the advanced clerical and lead worker duties of the Milwaukee North position constitute approximately 61-62% of the duties of the position, a clear majority. (For purposes of comparison and clarification, and consistent with the JSA position standard, the lead worker duties of an adjudication clerk are considered equivalent to advanced clerical duties.)

2. Delores Blankenhagen position - JSA3 - Respondent's Exhibit 10:

The advanced clerical and lead worker duties of this position constitute approximately 71-72% of the total duties, a clear majority.

3. JSA3 - Respondent's Exhibit 9:

Testimony elicited by respondent at the hearing indicated that this position is regarded as the benchmark position for the JSA3 classification. Sections A1 , A5 , B1 , C , and E are clearly advanced clerical duties of this position. The evidence available reveals that A1=15%, C=25%, and E=10% for a total of 50%. Although no percentages are available from the record for A5 and B1, the assignment of a percentage as low as 1% to each would provide for an advanced clerical total of 52%, a clear majority.

The assignment of percentages to A5 and B1 equivalent to those assigned to the comparable duties of appellant's position would add 2½-5% (A5) and 1-2% (B1) for a total of 53½-57%, again a clear majority.

4. Beverly Stegman position - JSA3 - Respondent's Exhibit 11:

The lack of a breakdown of percentages in the record precludes a detailed comparison with appellant's position. However, only two subsections out of 7 (A5 and A6) under section A of the position description would not be considered advanced clerical. Testimony indicates that duties described by A5 were not being performed because the applicable system was not operable. It is, therefore, reasonable to conclude that nearly the entire 70% figure assigned to section A involves the performance of advanced clerical duties. In addition, sections B1, B3, and C3 are considered advanced clerical duties. Clearly, advanced clerical duties constitute a majority of the duties of this position.

5. Joan Moores position - JSA3 - Respondent's Exhibit 12:

Sections A3, A5, C, and E describe advanced duties of this position. Although no percentage is assigned to A5, the record indicates that A3=25%, C=30%, and E=15% for a total of 70%, a clear majority.

The advanced clerical duties of appellant's position (viewing the evidence in the light most favorable to appellant) constitute 38½ to 57% of appellant's duties. Such a range supports a conclusion that it is more likely that the actual percentage falls below 50% rather than above 50% and that advanced clerical duties therefore do not constitute a clear majority of appellant's duties. In addition, the advanced clerical duties of those JSA3 positions offered for purposes of comparison constitute a clear majority of the duties of such positions.

The next question to consider is whether there is a better fit between appellant's position and the classification specifications for a JSA2 than those for a JSA3. The duties of appellant's position clearly satisfy the requirements of the JSA2 class definition section in the JSA position standard. In addition, the duties of appellant's position are essentially equivalent to those of the JSA2 positions offered for purposes of comparison:

1. Menasha Adjudication Clerk - JSA2 - Respondent's Exhibit 6:

Appellant's position performs all of the duties of this position except perhaps those relating to assisting the area fraud investigator (C6 of Exhibit). In addition, the Menasha position performs most, if not all, of the duties (including the advanced clerical duties) of appellant's position.

2. Shirley Bettinger position - JSA2 - Respondent's Exhibit 8:
Stephanie Kotecki position - JSA2 - Respondent's Exhibit 7:

A detailed comparison with appellant's position is not possible on the basis of the evidence presented but respondent's expert testified that these positions were comparable to appellant's position and this was not successfully rebutted by appellant.

Appellant's position is more appropriately classified at the JSA2 level than the JSA3 level.

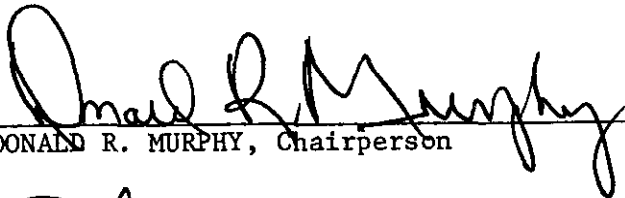
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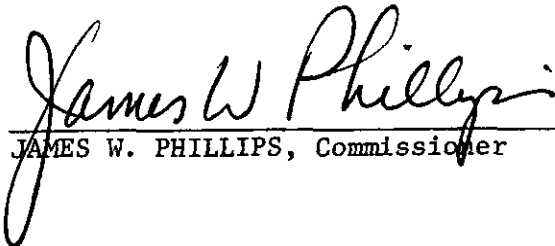
Respondent's denial of appellant's request for reclassification is affirmed
and this appeal is dismissed.

Dated: October 7, 1982

STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner


JAMES W. PHILLIPS, Commissioner

LRM:ers

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