

STATE OF WISCONSIN

PERSONNEL COMMISSION

 RICHARD NEWBURY,
 Appellant,
 v.
 Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 and, Administrator
 DIVISION OF PERSONNEL,
 Respondents.
 Case No. 83-0018-PC

DECISION
 AND
 ORDER

This suit is an appeal of a reclassification decision. The appellant believes respondent incorrectly denied his request for a reclassification of his position from Institutional Aide 1 to Institutional Aide 2. The following findings, conclusions, opinion and order are based upon a hearing on the merits before a hearing examiner appointed by the Commission.

FINDINGS OF FACT

1. The appellant, Richard Newbury, began employment as an Institution Aide 1 (IA-1) at Southern Wisconsin Center on September 4, 1979. He completed probation and obtained permanent status on March 4, 1980. In November, 1981, he was assigned to Cottage 12, second shift, where he is currently working.

2. Appellant's work attendance history at Southern Wisconsin Center is as follows:

| | | |
|-------------------------|-------------------------|-------|
| May 8 - July 7 | <u>1980</u> | Leave |
| January 1 | <u>1981</u> 56 hours | Leave |
| February 10 to March 12 | <u>1982</u> | Leave |
| May 20 to September 6 | | Leave |

In a period of a little over three years, the appellant missed approximately fourteen months of work.

3. The state classified civil service Institution Aide classification series is a progression series. The class specifications for an Aide 2 require that to be reclassified to an Aide 2 position, the incumbent must have two years of experience as an Aide 1 or equivalent and, satisfactorily completed the required advanced aide training program and demonstrate ability to provide a required level of rehabilitative and therapeutic services; or equivalent combination of training and experience. A typical advanced aide training program consists of 100 hours of patient related course work.

4. From November, 1981, until May 20, 1982, when he went on leave, the appellant was supervised by Ms. Yvonne Petkus. During that same period, Ms. Karen Harris was the relief supervisor assigned to the cottage where the appellant worked and had some work-related contact with the appellant. When the appellant returned from leave on September 6, 1982, Ms. Harris became his supervisor.

5. Under Ms. Harris' supervision, the appellant was assigned to act as the house parent for two residents who lived in different wings of cottage 12. The appellant was also assigned the "floater" position which required that he provide general house parent services to whichever wing of the cottage needing them on a given night.

6. Ms. Harris, as supervisor, had several daily person-to-person contacts with the appellant and was able to observe his work. She also reviewed appellant's chartings of a resident's leisure time activities, daily living activities and health care.

7. In October, 1982, Ms. Harris met with the appellant to discuss his job performance. She reviewed appellant's 1981 performance report, observed that he had been on leave for six months in 1982 and noted that he would have the same goals for the next year. In the appellant's 1982 job performance report, Ms. Harris wrote that the appellant had performed satisfactorily in certain areas and needed to improve his charting and record keeping.

8. On December 23, 1982, the appellant completed 100 hours of Aide 2 training. He had been on respondent's payroll as an IA-1 for over two years. On December 29, 1982, he requested reclassification to IA-2.

9. Ms. Harris, in response to a request for a recommendation, advised respondent's personnel manager at the center that she believed appellant's job performance was poor and that he needed more work experience in the cottage to obtain satisfactory performance.

10. On January 10, 1983, the center personnel manager denied appellant's reclassification request, stating that the appellant was not performing "... as a full and effective member of the (his) care, treatment and training team..." Subsequently, the appellant was given notice of the reclass denial and on February 10, 1983, he appealed the reclassification decision to this Commission.

11. The appellant did not demonstrate an ability to provide the required level of rehabilitative and therapeutic services so as to warrant reclassification to the IA-2 level.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Wis. Stats. (1981-82).

2. The appellant has the burden to show that the respondent's decision denying his reclassification to the Aide 2 level was incorrect.

3. The appellant has not met his burden.

4. The respondent's reclassification decision was correct.

OPINION

The appellant argues that he was not reclassified because his supervisor had not supervised him long enough to evaluate his job performance.

Ms. Harris, his supervisor, testified that as relief supervisor assigned to the same cottage as the appellant, she had some job-related contact with the appellant for a seven month period prior to the appellant's leave of absence in May, 1982. When the appellant returned to work in September, Ms. Harris became his direct supervisor. As appellant's supervisor, she was able to observe the appellant's job performance and had a minimum of five daily work related contacts with him. While a co-worker testified that the appellant's charting was as good as any other IA-1 or 2, she did not supervise the appellant and acknowledged she only casually perused the charts. She also stated that her testimony was based upon general observations. The respondent presented, as exhibits, copies of various resident charts and forms prepared by the appellant. These documents revealed minimal work in certain resident care activities, a failure to perform or record performance of certain functions required to insure the health and safety of his assigned residents, and uncomprehensive monthly summaries.

Although not argued by the respondent, there is some question as to whether or not the appellant, in fact, had two years of experience or equivalent as an IA-1. In a period of approximately three years, appellant was on medical leave some fourteen months.

After reviewing all the evidence presented in this suit, it is clear that even if the appellant met the two year requirement, he did not meet the level of performance required in the Aide 2 specifications. On that basis, the Commission concludes that the respondent's decision was correct and should be affirmed.

ORDER

The respondent's decision denying appellant's reclassification request is affirmed and this appeal is dismissed.

Dated: January 6, 1984 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

DRM:jmf


LAURIE R. McCALLUM, Commissioner


DENNIS P. MCGILLIGAN, Commissioner

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* Pursuant to the provisions of 1983 Wisconsin Act 27, published on July 1, 1983, the authority previously held by the Administrator, Division of Personnel over classification matters is now held by the Secretary, Department of Employment Relations.