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STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 NANCY THOMPSON, *
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 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondent. *
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 Case No. 86-0138-PC *
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DECISION
AND
ORDER

The above entitled matter came before this Commission for hearing on the merits of appellant's appeal of a denial of a position reclassification request. Testimony on appellant's appeal was heard by Commissioner Donald R. Murphy. Exhibits were received in evidence and each party submitted posthearing briefs. From the foregoing information, this examiner enters the following findings of fact, conclusions of law, opinion and order.

FINDINGS OF FACT

1. Appellant, Nancy Thompson, has been employed since January, 1981 as a Building Maintenance Helper (BMH 2) at the Lincoln Hills School (LHS), one of four institutions operated by the Department of Health and Social Services (DHSS) for the care and custody of persons adjudged delinquent.
2. Respondent, Secretary, Department of Employment Relations (DER), administers the state's agency responsible for personnel and employment policies and programs for Wisconsin state government as an employer. Secretarial functions include assigning positions to classifications.

3. In 1985, Ms. Thompson submitted a request for reclassification of her position from Building Maintenance Helper 2 (BMH 2) to Youth Counselor 1 (YC 1).

4. The request was reviewed and rejected by the personnel manager for LHS and the personnel specialist for DHSS. Because the transaction involved different classification classes and was non-delegated, the respondent reviewed appellant's reclassification request.

5. On October 16, 1986 the respondent denied appellant's request and on November 12, 1986 she appealed its decision to the Commission.

6. Classification specifications for YC 1 positions contain the following definition and examples of work:

Definition:

This is beginning level security and rehabilitative work performed in a juvenile institution. Employees work under supervision during a shift and assume responsibility for the counseling, care, security, training, rehabilitation or for special assignments related to cottage management. Work is performed under close supervision of higher level counselors with limited responsibility for exercising independent judgment. Positions functioning permanently on the night shift are defined at this level and would be allocated to the next level only if the position rotates an equal amount of time on the two activity shifts.

Examples of Work Performed:

Directs and supervises work, living, and leisure time activities in a cottage and is responsible for the maintenance of discipline and socially desirable patterns of conduct under the prescribed treatment program.

Supervises and teaches youths as appropriate; personal grooming, clothing care, cleaning, housekeeping, etc.

Gives instruction and serves as a good example in matters relating to personal hygiene, conduct, and morals and counsels boys and girls on day-to-day personal problems.

Assumes responsibility for the physical needs of boys and girls such as adequate food, clothing, supplies, equipment and general health.

Assumes responsibility for security and custody against elopement, intruders, disorder, accident or fire; enforces policies and regulations of the institution; picks up and returns runaways, usually from out of state detention.

May assume relief assignments for higher level Youth Counselors.

7. When appellant was first hired in 1981, she was classified as a BMH 2 and placed with a CETA worker, who taught her the use of buffers and floor scrubber machines. She was given no training in the use of other cleaning equipment used in her work, because she already knew how to operate them.

8. The appellant has the responsibility of supervising approximately five LHS students - persons adjudged to be juvenile delinquents - being trained in building maintenance. These students are assigned to the administration building to apply housekeeping skills learned in the classroom. Two students report to the appellant at 8:00 a.m. and work under her supervision until 11:30 a.m. At 12:30 p.m. another group of three students replace the morning group and remain until 4:00 p.m.

9. The appellant also monitors the students as they clean the building, to prevent outside contact because they are not searched before returning to their living area. As the students work under the watchful eye of the appellant, their conversations with appellant include discussion about their problems. Any unusual problems and behavior are reported by the appellant to the shift supervisor, unit manager or social worker. She also submits bi-monthly reports of the students' work habits to the custodial program instructor.

10. The appellant is responsible for cleaning the administration building. She personally cleans the communication center and any other restricted areas of the building. She supervises and directs the students in cleaning the other areas of the building. She is responsible for the cleanliness of the building assigned to her for janitorial services.

11. Appellant's position is similar to the BMH 2 position at LHS held by Phil Zipp. He is responsible for cleaning and minor maintenance of the

school/social service complex. He also directs custodial student trainees in janitorial services and makes bi-monthly reports of their general work habits to their classroom instructor.

12. Appellant's position is also similar, in some respects, to the YC 2 position at LHS held by William Gauthier. Gauthier is responsible for operating the institution's laundry. This includes pick up and delivery of laundry, preparation of laundry, scheduling and supervision of students assigned to laundry and cleaning and maintenance of equipment. Similar to appellant he directs students, who are assigned to him, in general laundry work habits and is supervised by the Assistant Business Administrator. This position is atypical of Youth Counselor positions.

13. Appellant's security duties require that she take basic security precautions in her role as janitorial supervisor. These duties, similar to those of all employes who have contact with the residents, differ significantly from those of the YC 2 position held by Dale Robinson at LHS, who has the working title of patrol person and whose primary focus is the security of the institution or the YC 2 position held by Lucille Charles who is responsible for the communication system and student intake and release.

14. Appellant's position is in marked contrast to a YC position at Ethan Allen School, which like the previously mentioned positions was used as a comparable position. Cindy Robbins, who holds a YC 1 position at Ethan Allen School, spends her time supervising a resident living unit. She is responsible for the counseling, care, security, training and rehabilitation of the residents in that unit. She also is responsible for maintaining the security of a work crew of seventeen residents. These residents, after completing six weeks of classroom training in custodial

services, are interviewed and chosen by Ms. Robbins to participate in a work care program. They are assigned work at various sites around the institution. Ms. Robbins evaluates these residents daily. Once a week she calls each resident in for a weekly evaluation. Every two weeks these reports are submitted to the supervisors of the resident living units and the coordinator for the review board. These residents are separate and distinct from the institution's building and maintenance department.

15. The position held by the appellant does not meet the criteria set forth for a Youth Counselor 1 position.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to §230.44(1)(b), Wis. Stats.

2. The appellant has the burden of proving respondent's decision to deny the reclassification of BMH 2 position occupied by her to a Youth Counselor 1 position was incorrect.

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

4. The decision by the respondent to deny the reclassification of the BMH 2 position held by appellant to a Youth Counselor 1 position was correct.

OPINION

It is well settled in the state employe classification system that class specifications and position standards are the basis for determining the classification of position. *Zhe et al v. DHSS & DP*, 80-285-PC 11/19/81 (affirmed, Dane Cty. Cir. Ct., 81CV6492, 11/82). The particular issue in this matter is whether respondent's denial of appellant's request to reclassify the position she occupied from Building Maintenance Helper 2 to

Youth Counselor 1 is correct. The unequivocal evidence favors respondent's decision.

From the onset, appellant was hired as a BMH 2. Upon beginning work she was placed with a CETA worker, who taught her the use of buffering and floor scrubbing machines, which were used in cleaning and maintaining the Lincoln Hill School buildings. After a short training period - the appellant testified she knew how to operate the other cleaning machines and housekeeping equipment used in maintaining the buildings - she was given the responsibility of cleaning and maintaining the administration building. The appellant testified that with the exception of the communication center which she personally cleans, she supervises five institution residents, who are trainees in custodial work. She also testified that as these student trainees work under her supervision, she counsels them and preserves security. The appellant acknowledged that she is responsible for the cleanliness of the administration building.

The plain evidence is that appellant's position is the same as Phil Zipp's, a BMH 2 at Lincoln Hills School, who is responsible for cleaning and maintaining the school's social service complex. In contrast, the evidence establishes that typical Youth Counselor 1¹ positions are responsible for the counseling, care, security, training and rehabilitation of the residents of the institution and to special assignments related to

¹ Respondent's witnesses testified to the effect that the Gauthier position, described in finding 12, was improperly classified in the YC series. Due to the absence of any contrary evidence, the Commission will not rely on the Gauthier position as a basis for reclassifying the appellant's position into the YC series.

cottage - living area - management. Employees in these positions are given a seven-week youth counselor training course.

The evidence further establishes that all employees at Lincoln Hills School are encouraged to show an interest in the resident and to be mindful of the institutional security requirements. Appellant's security duties are general, similar to the general security responsibilities of all employees at Lincoln Hills School. Any counseling performed by appellant also has this same quality of institutional general policy which applies to all employees.

Finally, ER-Pers 3.01(3), Wis. Adm. Code provides as applicable to this matter:

RECLASSIFICATION: Reclassification means the assignment of a filled position to a different class..., based upon a logical and gradual change to the duties or responsibilities of a position....

No evidence was presented satisfying this legal requirement.


The record clearly establishes that appellant is not functioning as a Youth Counselor 1. Whether or not she is a Building and Maintenance Helper 2 cannot be answered. No BMH 2 classification specifications were entered into the record.

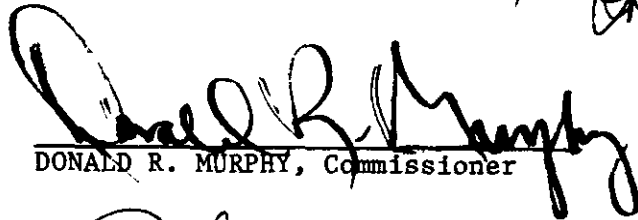
Based upon the record, it is this examiner's belief that respondent was correct in denying appellant's reclassification request.

ORDER

Respondent's decision is affirmed and this appeal is dismissed.

Dated: December 23, 1987 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson *DM*


DONALD R. MURPHY, Commissioner


LAURIE R. MCCALLUM, Commissioner

DRM:rcr
RCR01/3

Parties:

Nancy Thompson
1614 Spruce Avenue
Tomahawk, WI 54487

John Tries
Secretary, DER
P.O. Box 7855
Madison, WI 53707