

STATE OF WISCONSIN

PERSONNEL COMMISSION

RUSSELL A. GRAFF,

Appellant,

v.

Secretary, DEPARTMENT OF  
HEALTH AND SOCIAL SERVICES  
and Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondents.

Case No. 88-0046-PC

DECISION  
AND  
ORDER

This matter arises from a reclassification decision. At a prehearing conference held on May 25, 1988, the parties agreed to the following statement of issue:

Whether the respondents' decision, either actual or constructive, to deny the reclassification of the appellant's position from Officer 1 to Officer 2 was correct.

Subissue: If not, whether the effective date of the reclassification should be April 14, 1988.

The parties subsequently entered into a stipulation of facts and agreed to a briefing schedule for filing arguments without a hearing.

FINDINGS OF FACT

1. On April 14, 1986, the appellant began his employment with the State Department of Health and Social Services as an Officer 1 at the Correctional Training Center.

2. For the period he was at the training center, the appellant's position description included the following goals:

A. Participation in and successful completion of the Corrections Training Center five-week Correctional Officers Preservice Training Program.

B. Participation in on-the-job training in the security and custody of inmates to insure inmates, staff, and community protection.

D. Participation in on-the job training in the inspection of the institution and inmates for proper security, health, and safety.

E. Participation in on-the-job training in reporting to supervisors, disciplinary committee, etc., regarding inmates and incidents.

F. Participation in on-the-job training in the maintenance of the institution's records and recordkeeping system.

3. On August 3, 1986, the appellant transferred to Columbia Correctional Institution (CCI) as an Officer 1

4. The position summary on the appellant's Officer 1 position description reads:

Under the supervision of the Institution Security Director, Officer 6, officer 5, and/or direction of an Officer 3, this position is responsible for the security, custody, control and treatment of inmates at the Columbia Correctional Institution (CCI), supervising inmates in work or housing unit situations, escorting inmates off-grounds as required, patrolling institution building and grounds, and performing other related work as required. CCI is a maximum security 450 bed adult male correctional institution.

5. On January 3, 1987, the appellant resigned from his position as an Officer 1 at the Columbia Correctional Institution.

6. Effective January 4, 1987, the appellant was promoted to the classification of Social Worker 1 with the Division of Corrections, DHSS.

7;. Appellant's position description as a Social Worker 1 states that the working title of his position was Probation and Parole Agent. The position summary reads:

Under the close supervision of a field supervisor, with emphasis on training, a Probation and Parole Agent identifies the nature and causes of a client's problem(s) and capacities; formulates case plans to aid clients, monitors and implements the case plan upon approval of the supervisor; maintains accurate case records; provides counseling and guidance; develops and refers clients to ap-

appropriate community resources; and protects the public. Decisions that have a significant consequence for the client or community require prior review and approval by the supervisor. The agent shall comply with the Department's administrative rules and the agency's policies and procedures.

8. The appellant failed to meet the probationary standards of a Social Worker 1 while in that position.

9. On June 20, 1987, the appellant was restored to the Officer 1 position at CCI. Appellant's new position description was substantially identical to his prior position description while at CCI.

10. Beginning on June 25, 1987, the appellant went on a leave of absence for medical reasons.

11. The appellant returned from his medical leave on August 12, 1987.

13. The Division of Corrections' standards for reclassification from Officer 1 to Officer 2 require, in part, as follows:

**TRAINING/PERFORMANCE STANDARDS**

B. Experience - 2 years of experience as an Officer at least 6 months of which are at the Officer 2 level.

\* \* \*

**HOW MEASURED OR EVALUATED**

[B.] Completion of 2 years of employment as an Officer 1 with DHSS.

14. On April 14, 1988, the appellant filed a letter with the Personnel Commission "appealing the decision to withhold my promotion (based upon reclassification standards) to the level of Officer 2 until October, 1988." Attached to the appeal letter was a memo dated March 23, 1988 from Lt. Duaine Radtke to the appellant:

Effective April 14, 1988, you will have two years in State Service. Officer 2 reclassification standards state that an employee must have 2 years of experience as an Officer, at least six months of which are at the Officer 2 level. However, because you left the Officer classification on January 4, 1987, to become a Social Worker you will not have the 2 years in as an Officer. According to our records, you promoted to the Division of Corrections effective January 4, 1987 and came back to CCI effective June 21, 1987. This is a period of 24 weeks. Thus, you will not be eligible for reclassification to the Officer 2 level until October, 1988.

15. Because of the period he was employed in the Social Worker 1 classification, the appellant did not obtain the requisite two years of experience as an Officer 1 until months after the April 14, 1988, two year anniversary of when he began employment as an Officer 1.

#### CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.

2. The burden of proof is on the appellant to establish that the respondents' decision not to reclassify his position from Officer 1 to Officer 2 was incorrect.

3. The appellant has failed to sustain his burden of proof.

4. The respondents' decision, as reflected in the memo dated March 23, 1988, not to reclassify the appellant's position from Officer 1 to Officer 2 until the appellant had served a full two years as an Officer 1 was correct.

#### OPINION

The standards for reclassification from Officer 1 to Officer 2, set forth in finding of fact 13, very clearly indicate that the employee must have two years of experience as an Officer 1 in order to be reclassified. In the present case, the appellant worked only eight and one-half months as an Officer 1 before leaving to take a promotion to a Social Worker 1 position. Appellant returned to the Officer 1 position five and one-half months later, and then was off work for one and one-half months on a medical leave of absence. Had he remained in the Officer 1 position without interruption after his hire in April of 1986, the appellant would have completed the requisite two years of Officer 1 experience by April of 1988. But because he worked in a different classification and was on medical leave for a total of seven months during this period, the appellant had only completed approximately seventeen months as an Officer 1 by April of 1988. The operative reclassification standards precluded the reclassification of his position at that time.

The appellant contends that the duties of a Probation and Parole Agent are identical for the purpose of applying the reclassification standards. However, the standards are simply too restrictive to permit consideration of work as a Probation and Parole Agent in calculating the two year Officer 1 experience requirement. In addition, the appellant's position descriptions as an Officer 1 and as a Social Worker 1 are readily distinguishable: The majority of the Officer 1 responsibilities involve supervision of inmates and inspection of the institution and inmates, while the primary responsibility of the Probation and Parole Agent is client evaluation and the preparation, monitoring and implementation of case plans. Although the two positions deal with similar groups of clients, both the purpose and the setting of the client contacts are dissimilar.

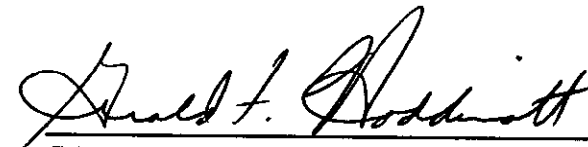
In his letter of appeal to the Commission, the appellant contended that upon returning to CCI in June of 1987, CCI's "Personnel Administrator", John Kovacik, informed the appellant that his "promotion to an Officer 2 position would not be affected by 6 months of absence from Columbia Correctional but would be received on [his] anniversary date of 14 April 1988." The appellant did not raise this argument in his brief, nor did the parties stipulate to any of the facts necessary to such a contention. Therefore, the Commission cannot address this argument.

ORDER

The respondents' decision is affirmed and this matter is dismissed.

Dated: Jan 25, 1989      STATE PERSONNEL COMMISSION

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

KMS:kms

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