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RUSSELL S. REPPEN,
 Appellant,

v.

Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,
 Respondent.

Case No. 90-0239-PC

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DECISION
 AND
 ORDER

Nature of the Case

This is an appeal of respondent's decision to reallocate appellant's position to the Revenue Auditor 4 level. A hearing was held on February 14, 1991, before Laurie R. McCallum, Chairperson.

Findings of Fact

1. At all times relevant to this matter, appellant has been employed in a classified position in the Bureau of Utility and Special Tax, Division of State and Local Finance, Department of Revenue (DOR). As a result of a personnel management survey, appellant's position was reallocated from Audit Specialist 5 (PR 01-13) to Revenue Auditor 4 (PR 01-14) effective June 3, 1990. Appellant filed a timely appeal of this reallocation with the Commission on July 2, 1990.

2. Appellant's position is responsible for administering DOR's real estate transfer fee audit program which involves selecting returns for audit, identifying and investigating potential violations of real estate transfer fee law, assessing additional fees or granting refunds to grantors of real estate conveyances, communicating DOR policy regarding real estate transfer fees to interested parties, monitoring county transmittal fee forms for collection purposes, and serving as leadworker for the Bureau's collection control function. Approximately 200,000 real estate transfer fee returns are filed with DOR each year of which appellant's position selects 500 of the largest and most difficult for audit. Of these 500, approximately 3 or 4 would be considered unusually

complex and would require substantial field work. The performance of these approximately 3 or 4 unusually complex audits each year consumes a small percentage of appellant's positions' time, i.e., consumes much less than a majority of appellant's position's time. Appellant's position is the only auditor position assigned to the real estate transfer fee audit program.

3. The classification specification for the Revenue Auditor series provides as follows, in pertinent part:

REVENUE AUDITOR 4

Positions allocated to this level function as: . . . (7) objective level Transfer Fee Audit Specialist, responsible for administering the real estate transfer fee audit program; monitoring county transmittal fee forms for collection purposes; recommending audit selection procedures; identifying and investigating potential violations of transfer fee law; assessing additional fees and grant refunds to grantor of conveyance; and functioning as leadworker in the collection control function for taxes assessed. Work is performed under general supervision; . . .

REVENUE AUDITOR 5

Positions allocated to this level function as: . . . (8) advanced level Transfer Fee Audit Specialist, responsible for performing the most complex Transfer Fee Audit Specialist field audit work; and performing work under general supervision.

4. The eighth allocation of the Revenue Auditor 5 classification was included in the classification specification to prepare for some future time when the real estate transfer fee audit program would be expanded to include more than one auditor position and one of these auditor positions would devote the majority of time to conducting the unusually complex audits requiring substantial field work.

5. Appellant's position is better described by the language of the Revenue Auditor 4 classification specification than that of the Revenue Auditor 5 classification specification and is more appropriately classified at the Revenue Auditor 4 level.

Conclusions of Law

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

2. Appellant has the burden to prove that respondent's decision to reallocate his position to the Revenue Auditor 4 classification was incorrect.
3. Appellant has failed to sustain this burden.
4. Appellant's position is more appropriately classified as a Revenue Auditor 4 than a Revenue Auditor 5.

Decision

In order to sustain his burden of proof, appellant must show that any Revenue Auditor 5 level duties and responsibilities his position performs consume a majority of his position's time.

The essence of appellant's argument in this case is that his position performs "the most complex Transfer Fee Audit Specialist field audit work" within the meaning of the eighth allocation of the Revenue Auditor 5 classification specification and should, therefore, be classified at the Revenue Auditor 5 level. The record shows, however, that, although appellant's position does perform this type of work, it does not consume the majority of appellant's position's time. The record clearly shows that appellant's position conducts all the audits of real estate transfer fee returns for DOR and that the audit of the most complex of these consumes much less than a majority of appellant's position's time.

Appellant also argues that his position performs many of the same tasks as those described in the Revenue Auditor 5 and even 6 classification specifications and his position, therefore, should be classified at least as high as the 5 level. However, it must be assumed that auditors at many different levels perform many of the same tasks in carrying out the duties and responsibilities of their positions. What the Commission is required to focus on in deciding a case such as the instant one is what description of duties and responsibilities within the Revenue Auditor classification specification best describes the duties and responsibilities of appellant's position.

The Commission concludes that, although appellant's position does perform duties and responsibilities described by the Revenue Auditor 5 classification, i.e., conducting the most complex real estate transfer fee audit work, this activity does not consume the majority of appellant's positions' time and does not, therefore, satisfy the requirements for classification at the Revenue Auditor 5 level. The majority of appellant's position time, is, however, devoted

to performing duties and responsibilities which are well-described by the language of the Revenue Auditor 4 classification specification and appellant's position is, therefore, more appropriately classified at the Revenue Auditor 4 level.


Order

The action of respondent is affirmed and this appeal is dismissed.

Dated: April 5, 1991 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM/gdt/2


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

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