

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *

LLEWELLYN LEE,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 90-0301-PC

* * * * *

*
*
*
*
*
*
*
*
*
*
*
*

DECISION
AND
ORDER

This matter is before the Commission on the following issue:

Whether the respondent's decision to reallocate the appellant's position to Engineering Specialist-Transportation-Journey rather than Engineering Specialist-Transportation-Senior, effective June 17, 1990, was correct.

There was some testimony from Mark Ploederer (appellant's supervisor at the time of hearing but not his supervisor in June of 1990) that the appellant's position description (PD) may not have been accurate as of the effective date of respondent's reallocation decision. However, there was no specific testimony indicating where the PD may have been in error and the Chief Planning Engineer in District 6 testified that the time percentages listed on the appellant's PD appeared to be accurate. For these reasons, the appellant's PD (Respondent's Exhibit 3) is found to accurately reflect the appellant's duties during the relevant time period.

The majority of the appellant's responsibilities involve the data and inventory functions for the Department of Transportation's District 6. The position summary identifies the appellant's position as the "coordinator of the Data and Inventory function" and Goal A (25%) references certification and updating of road mileages, Goal B (20%) references inventorying local roads, Goal C (15%) references validating the state trunk highway log, and Goal F (5%) references collecting bridge information.

As correctly noted by respondent, the function of collecting and entering such data is well-described in the representative position at the Engineering Technician 3 class level under the heading of District Planning:

Planning Technician

This position conducts independent field review and follow-up certification of the local road system in the district and selected segments of the State Trunk Highway System to certify accuracy of the local road data system for payment of state aids to units of government within the district; schedules and conducts inventory work; completes data input and mapping updates.

The data and inventory function is handled differently in the various DOT districts. In several of the districts, including both District 1 (Madison) and District 2 (Waukesha), this function is placed under the direction of a leadworker who is classified at the Engineering Specialist-Senior level. William Carpenter fills the leadworker position in Madison, while Joseph Rocki fills the equivalent position in Waukesha. Both of these positions have lower level staff, including positions classified at the Technician 3 level, who carry out the bulk of the actual field inventory work and data entry work. One of these lower level positions in District 1 is filled by Anton Spsychalski and one in District 2 is filled by Leonard Hedtcke. Both the Spsychalski and Hedtcke positions are classified at the Engineering Technician 3 level.

The appellant's position represents a hybrid of the Carpenter/Spsychalski positions in District 1 and the Rocki/Hedtcke positions in District 2. In District 6, management has chosen to have the appellant serve as the coordinator for the inventory and data function but has not provided any other staff in that area. Therefore, the appellant is himself doing the field work and data entry functions performed by Spsychalski and Hedtcke in Districts 1 and 2, respectively, as well as answering the most difficult program questions which are functions performed by Carpenter and Rocki as the leadworkers in those two districts.

There is no allocation at the ES-Senior level which specifically identifies the Carpenter and Rocki positions. The closest allocation is listed under Senior Planning Specialist (District), which lists the following as one of 4 allocations:

[C]oordinate and direct the activities of lower level specialists or technicians in producing and completing the technical annual programs dealing with Federal and State highway system plans and in producing highway traffic data

This allocation closely tracks the duties assigned to the ES-Senior position in District 4 filled by Larry Frank. That position summary reads:

This position is responsible for coordinating and directing the activities of several technicians and/or LTE's in producing and completing the technical annual progress dealing with Federal and State highway system plans [30%]; production of highway traffic data [25%]; the certification of local and state system road data [25%]; review and analysis of professionally prepared land use and access documents [25%]

The 25% of the Frank position which relates to certification of local and state system road data corresponds to the duties assigned to the Carpenter and the Rocki positions: All entail leadwork responsibility.

The appellant does not accurately fit within any of the ES-Senior allocations. He performs only certain limited aspects of several of the allocations.

We are left with the conclusion that the appellant does something more than the Spsychalski and Hedtcke positions but something less than the leadwork functions performed by Carpenter and Rocki (as well as Frank). The respondent took the route of allocating the appellant's position to the intermediate slot of Engineering Specialist-Journey, a classification level higher than ET-3, but lower than ES-Senior. Again, there is no allocation at the ES-Journey level which fully and specifically describes the appellant's responsibilities. The listing for "Planning Specialist" at the ES-Journey level lists 8 different functions and, according to the testimony of the District 6 Chief Planning Engineer, the appellant performs only aspects of three of them.

However, there is general language in the specifications which indicates the specifications are based upon 10 classification factors, which are to be used when classifying a position "that is not specifically defined by one of the classification definitions." One of those factors is supervisory responsibilities:

This factor measures the degree to which a position a) has responsibility for carrying out leadwork/supervisory functions such as hiring, directing, evaluating performance and administering discipline; b) the number of people the position is re-

sponsible for leading/supervising; and c) the degree to which supervisory authority is shared with positions at higher levels in the organizational hierarchy.

As to this factor, the appellant's position is clearly at a lower level than the Carpenter and Rocki positions. Appellant's position still fits the general language for the ES-Journey level because he performs "a wide variety of difficult journey level engineering specialist assignments under the... general supervision of a higher level... architect/engineer supervisor."

The Commission recognizes that the end products of appellant's work and the work performed by Mr. Carpenter and Mr. Rocki are essentially the same. However, the procedure used to obtain that product is different in that the appellant does the entire program, while Msrs. Carpenter and Rocki, as leadworkers must spend less time on data collection and must spend time on assigning work to, training and evaluating permanent and seasonal staff.

The result in this case is also supported by comparison to the Dale Gardner position in District 7, which is identified as the local roads coordinator for that district. Mr. Gardner's PD reflects 45% for that responsibility, as well as 25% as leadworker for traffic counting. Leadwork in traffic counting activities is one of the duties specifically listed at the ES-Journey level in the Planning Specialist allocation. Classification of the Gardner position at the ES-Journey level supports a similar classification result for the appellant's position given the similarity of duties.

The appellant pointed out that there are other positions in District 6 which are classified at the ES-Senior level and which do not have any leadwork responsibility. This fact does not mean that the appellant is also entitled to classification at the ES-Senior level, however. There are numerous allocations identified at that level, only some of which reference leadwork. Leadwork is not identified in the ES-Senior definition statement as a requirement for classification at that level. The appellant has not shown that he performs the duties described in the other allocations.

The appellant has not shown that respondent's reallocation decision was incorrect, so the Commission enters the following

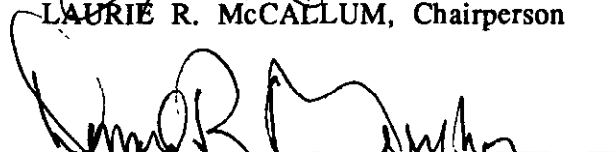
ORDER

The action of respondent in reallocating the appellant's position to the ES-Journey level is affirmed and this appeal is dismissed.

Dated: March 29, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

KMS:kms


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

Llewellyn Lee
DOT
718 W. Clairemont Avenue
Eau Claire, WI 54701-5108

Jon E. Litscher
Secretary, DER
P.O. Box 7855
Madison, WI 53707-7855

NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must

serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)