

PERSONNEL COMMISSION

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PAUL E. HIGGINS,

Appellant,

v.

Secretary, DEPARTMENT OF
ADMINISTRATION, and
Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondents.

Case No. 91-0216-PC

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DECISION AND ORDER

This matter is before the Commission as an appeal from a decision denying the appellant's request to reclassify his position. The parties agreed to the following issue for hearing:

Whether respondents' decision denying appellant's request for reclassification from Groundskeeper to Gardener 2 was correct.

The parties filed post-hearing briefs.

FINDINGS OF FACT

1. At all relevant time periods, the appellant has been employed by respondent Department of Administration to care for the grounds at the Executive Residence.
2. The appellant's first line supervisor is William Beckman who serves as the Grounds Manager for both the State Capitol and the Executive Residence. Mr. Beckman's worksite is the Capitol.
3. The appellant's duties are as follows:
 - 55% A. Under the general supervision of the State Capitol/Executive Residence Grounds Supervisor, perform manual work of a heavy physical nature with independent responsibility for the care of the grounds at the Executive Residence.

- A1. Responsible for planting and caring for flowers on the grounds and in the residence.
- A2. Responsible for soil and lawn care.
- A3. Responsible for planting and caring for trees, shrubs and bushes on the grounds.
- A4. Remove trash, dirt, debris and snow from all hard surfaces, including sidewalks, porches, drives, steps, patios and entrances.
- A5. Assist with landscape design.
- A6. Perform related duties including maintaining records.
- 15% B. Under the general supervision of the Grounds Supervisor or the Facilities Repair Leadworker, maintain grounds and maintenance tools and equipment as well as motorboats.
- 5% C. Under the general supervision of the Grounds Supervisor, perform general maintenance at Buildings & Grounds greenhouse.
- 18% D. Perform related duties.
 - D1. Perform routine manual labor as directed, including moving furniture and equipment and receiving supplies.
 - D2. Set up and take down equipment for special events at the Executive Residence and Capitol.
 - D3. Keep shops, work areas, garages and storage areas clean and orderly.
 - D4. Serve as back up to Facilities Repair Worker as assigned.
 - D5. Decorate Executive Residence for holiday season. Place garlands and trees in, on and around the residence, using boom truck as needed. Water trees and maintain electrical decorations.
- 5% E. Serve as leadworker for other employees.
- 2% F. Address garden clubs during tours of residence grounds.

4. The class description for the Groundskeeper classification includes the following:

Definition:

This is lead work guiding the activities of a ground maintenance crew engaged in semi-skilled manual labor work. Under limited supervision employees in this class guide and assist in the activities of a small grounds maintenance operation at a state installation.

Examples of Work Performed:

Assigns and guides the work of a small number of employees engaged in the care and maintenance of lawns, trees, shrubs, flower beds, sidewalks, roads, and parking areas; garbage and rubbish collection and removal, sign installation, snow and ice control, and other related activities.

Instructs grounds crew employees in the proper work methods and procedures.

May assist in the work performed by the grounds crew.

Keeps records and makes reports.

Despite the reference in the Groundskeeper class description to performing leadwork, the respondents have allocated positions to this class without leadwork responsibilities.

5. The class description for the Gardener 2 classification includes the following:

Definition:

This is highly responsible, and/or specialized research work in a large state garden and/or greenhouse operation. Employees in this class may be required to carry out specialized garden and/or greenhouse operations on research projects under the limited direction of faculty; and/or may lead a crew of employees in gardening activities. This class differs from the Gardener 1 in the size, scope, complexity and responsibility of operation.

Examples of Work Performed:

Assists and guides others in mixing soils and in the preparation of field and garden research plots.

Assists and guides others in the planting, propagating, grafting, fertilizing, irrigating, and harvesting of garden, greenhouse, and/or nursery plants.

Controls plant insects and diseases through use of insecticides, [fungicides], and steam-sterilizing of soil and flower pots.

Responsible for maintaining, adjusting and operating greenhouse and/or garden equipment.

Innoculates trees and other plants in disease studies and isolates and reisolates inoculated plants using microbiological procedures

Performs pollinations in trees and other plants.

Keeps records and makes reports.

6. The only time the appellant regularly serves in a leadwork capacity is during the months of June, July and August when DOA hires limited term employees (LTEs) to assist at both the Capitol and the Executive Residence. During the summer of 1990, the appellant served as a leadworker for one LTE who worked approximately 30 to 35 hours per week. During the summer of 1991, the appellant served as a leadworker for one LTE who worked approximately 15 hours per week.

7. The appellant is not assigned any research responsibilities.

8. The appellant's position is comparable from a classification standpoint to the Groundskeeper position occupied by Paul Looper. Mr. Looper's position description includes the following:

60% A Under the general supervision of the State Capitol/Executive Residence Grounds Supervisor perform manual work of a heavy physical nature, with independent responsibility on weekends, for the care of the grounds at the State Capitol and Executive Residence.

A1. Responsible for maintaining general Flower (Bulb) care which includes all maintenance care.

A2. Responsible for maintaining general Lawn care which includes all maintenance care.

A3. Responsible for maintaining grounds plantings, which includes all Trees, Shrubs, and Bushes at State Capitol & Executive Residence.

A4. Responsible for maintaining all hard surfaces which includes sidewalks, porches, drives, steps, patios and entrances

A5. Perform other duties and projects as assigned by Grounds Supervisor or directed by the Facilities Repair Leadworker.

10% B. Under the general supervision of the Grounds Supervisor, with independent responsibility on weekends, maintain grounds and maintenance tools and equipment in proper operating order

- 20% C. Under the general supervision of the Grounds Supervisor, with independent responsibility on weekends, perform general maintenance operations at Buildings & Grounds Greenhouse.
- 10% D. Under general supervision of the Capitol Grounds Supervisor or direction of Facilities Repair leadworker, with independent responsibility on weekends, perform other duties.

9 The appellant's position is not comparable from a classification standpoint to the following positions classified at the Gardener 2 level:

a. The Roland Smejkal position at the Peninsular Experiment Station of the UW College of Agricultural and Life Sciences This position performs research work and also serves as a leadworker for two permanent and four seasonal employees The position description includes the following summary:

Responsible for the research plot and field operations at an Agronomic and Horticultural Experiment Station. A significant portion of the position's responsibilities are in support of the vast horticultural and agronomic acreage devoted to management of research varietal trials Responsible for the operation of the station greenhouses and screenhouses.

b. The Mary Bauschelt position with the UW Botany Department. This position performs research work and also serves as a leadworker for 1.6 Gardener 1's and 6 students The position description includes the following summary:

In general Gardener II guides and assists Gardener I and part-time student and volunteer helpers in growing and maintaining the plant collections (whether used in teaching or research) both in the greenhouses (currently the greenhouses connected to Birge Hall and the Walnut Street range houses No. 8 and 9) and in the gardens under the jurisdiction of the Department of Botany

c. The Henry Berg position at the Horticulture Research Farm in Arlington Wisconsin operated by the UW Horticulture Department. The position performs research work and serves as leadworker for up to 7 employees. Seventy percent of Mr. Berg's time is spent on the maintenance of the research farm/greenhouse complex, including the heating, cooling and watering of the greenhouses, operating farm and irrigation equipment, and over-

seeing the work of other employees. The remaining 30% of Mr. Berg's time is spent on tobacco research and ornamental plant research.

10. The positions with responsibility for maintaining the gardens, plants, trees and lawns at the State Capitol are all classified at the Gardener 1 level. These positions have somewhat greater leadwork responsibility than the appellant.

11. The area of the plantings at the Executive Residence is less than that at the Capitol.

12. The Gardener 1 class specifications refer to performing "responsible work in a greenhouse operation and/or small state garden."
(Emphasis added)

13. The Gardener 1 and Groundskeeper classifications are in the same pay range.

· CONCLUSIONS OF LAW

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

2. Appellant has the burden of proving by a preponderance of the evidence that respondents erred in denying the request to classify his position from Groundskeeper to Gardener 2.

3. Appellant has not sustained his burden of proof and the Commission concludes that respondents did not err in denying the request to reclassify the appellant's position.

OPINION

The description of the appellant's duties set forth in finding of fact 3 is an amalgamation of the appellant's position description dated October of 1988 and appellant's description of additional duties he was performing at the time of his reclassification request. Many of the "additional" duties identified by the appellant were already encompassed by various language within the 1988 position description. For example, the 1988 position description indicated the appellant spent 10% of his time keeping grounds and maintenance tools and equipment in proper operating order. Task B1 specifically mentioned performing preventative maintenance on "vehicles . . . boats, and other grounds

and maintenance equipment" but there was no express mention of maintaining an irrigation system. As part of his reclass request, the appellant indicated that the amount of time he spent on goal B had declined from 10% to 5%, and that, in addition, he spent 5% of his time maintaining an irrigation system and 5% of his time maintaining and repairing boats. As reflected in finding 3, the Commission has placed both of these duties within the general language of goal B and has modified the time allocation to 15%. Other tasks identified by the appellant as "additional" duties have likewise been placed within the structure of the 1988 position description and the time allocations have been modified as appropriate:

Pesticide application was already described in tasks A1 , A2., A3., and C3.

Assisting with landscape design has been identified as a separate task under goal A.

Setting up a large tent for special events is part of task D2.

Holiday decorating has been identified as a separate task under goal D.

Caring for houseplants has been added to task A1

Separate goals have been identified for serving as leadworker and addressing garden clubs.

As indicated in finding of fact 6, the appellant served as a leadworker for one LTE for approximately 30 to 35 hours per week during the summer of 1990 and for approximately 15 hours per week during the following summer. These periods represent approximately 20% and 10%, respectively, of the appellant's 2080 hour work year during these two years. The appellant spent approximately 5% of his time actually guiding or directing the work of other employees. Because both the Groundskeeper and Gardener 2 class descriptions refer to performing leadwork, the limited nature of the appellant's leadwork responsibility is not determinative for classification purposes.

The appellant fits within the general language of the Groundskeeper class description. While much of the appellant's time is spent on caring for the flowers, plants, trees, shrubs and lawn at the Executive Residence, he also has very significant responsibilities relating to the "hard surfaces," special

events and routine manual labor which are not related to gardening. The appellant also cannot be said to fit into either allocation pattern for the Gardener 2 classification. The specifications are unclear in terms of whether they require performance of research work in all instances or whether they include positions which do not perform research but instead perform "highly responsible . . . work in a large state garden and/or greenhouse operation."¹

Whichever reading is appropriate, the appellant has failed to establish that he works in a *large* state garden or greenhouse operation. The only relevant testimony on this point was that the area of the gardens at the Executive Residence is smaller than at the Capitol and the persons who care for the gardens at the Capitol are classified at the Gardener 1 level. The Gardener 1 specifications refer to persons performing "responsible work in a greenhouse operation and/or *small* state garden," so the Executive Residence gardens cannot be said to be "large" as required for classification at the Gardener 2 level.

The various comparable positions also tend to support classification of the appellant's position at the Groundskeeper classification. The appellant failed to offer any comparable positions at the Gardener 2 level which, like the appellant's position, have no research responsibilities. The Looper position, classified as a Groundskeeper, has substantially similar duties to the appellant except that there is no indication that Mr. Looper ever serves as a leadworker. The mix of responsibilities performed by Mr. Looper supports the respondents' testimony that they place positions in the Groundskeeper class which are given a variety of responsibilities relating to the care of grounds and where there is no research involvement.

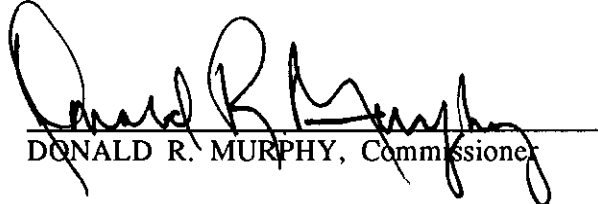
¹ Respondents' witness testified that the only positions in state service which are classified at the Gardener 2 level perform research work.

ORDER

The respondents' classification decision is affirmed and this appeal is dismissed.

Dated: August 26, 1992 STATE PERSONNEL COMMISSION

KMS:kms


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

Parties:

Paul Higgins
RR2 Box 284A
Richland Center WI 53581

James Klauser
Secretary, DOA
101 S Webster St
P O Box 7864
Madison WI 53707

Jon E Litscher
Secretary DER
137 E Wilson St
P O Box 7855
Madison WI 53707

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.