

due to the nature of the hatchery and appellant's role occupying the sole position in the HVAC field at that facility. While this position necessarily is responsible for a good deal of work at the MM 3 level which prevents it from meeting the criteria for classification as an HVAC Specialist, the Commission suggests that other approaches be explored that would permit the classification recognition of the duties of the position that transcend the MM 3 level.


ORDER

So much of the attached proposed decision and order which is not inconsistent with the foregoing is adopted by the Commission, the remainder is rejected. As its final disposition of this matter, the Commission affirms respondent's action reallocating appellant's position to MM 3 rather than HVAC Specialist, and dismisses this appeal.

Dated: February 3, 1994 STATE PERSONNEL COMMISSION

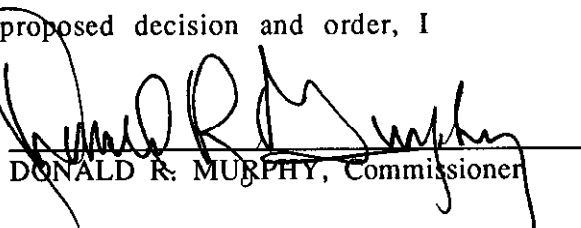

LAURIE R. McCALLUM, Chairperson

AJT:rcr


JUDY M. ROGERS, Commissioner

DISSENT

For the reasons set forth in the proposed decision and order, I respectfully dissent.


DONALD R. MURPHY, Commissioner

Parties:

Raymond Peters
Bayfield Fish Hatchery
P.O. Box 589
Bayfield, WI 54814

Jon Litscher
Secretary, DER
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.

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.)

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *

RAYMOND L. PETERS,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 92-0159-PC

* * * * *

PROPOSED
DECISION
AND
ORDER

On September 3, 1992 Raymond L. Peters, appellant, filed a timely appeal of the Department of Employment Relations', (DER), decision reallocating his position, after conducting a maintenance mechanic survey, to Maintenance Mechanic 3, effective February 9, 1992. A hearing on Peters' appeal was held September 16, 1993 before Donald R. Murphy, Commissioner. At the conclusion of the hearing, closing arguments were made by the parties.

Raymond L. Peters was first hired into the subject position at the Department of Natural Resources, Bayfield Fish Hatchery, Bayfield, Wisconsin in December 1974. The Bayfield Hatchery is the only one of its kind in Wisconsin. It is completely enclosed and runs on electric power. The hatchery produces over a million fish annually. At the time of DER's survey, Peters was solely responsible for the environmental condition for the hatchery and the work units at Bayfield, and some 25 independent heating systems. Peters was required to reside on the fish hatchery grounds and his home was equipped with a tele-communication system that interfaced with the hatchery's main control center, which allowed him to meet the requirement of being responsible for the hatchery equipment 24 hours a day. Over the years, Peters responsibilities changed from preventive maintenance to total responsibility for the environmental conditions of the hatchery.

During the Maintenance Mechanic survey, Peters' position was designated as a bench mark position and was audited by DER. Subsequently, when drafting the Position Standard for Maintenance Mechanic positions, DER drafted allocation pattern 4, of the Maintenance Mechanic 3 classification

specification with the specific intent to describe Peters' position. The particular language of MM3, allocation pattern 4 is as follows:

This is advanced level mechanical maintenance repair work. Employees in this class operate, maintain and make repairs on electrical, plumbing, heating, refrigeration, air conditioning and other mechanical systems and apparatus commonly used in office and institutional buildings and building complexes. 4) Area Maintenance employees who are independently responsible for an entire mechanical maintenance operation in an institution, larger State office building, a specific assigned area of a complex operation or a fish hatchery. (emphasis added).

Pertinent parts of the Position Standard for Heating, Ventilating, Air Conditioning (HVAC) and/or Refrigeration Specialist provide:

Positions allocated to this series are primarily responsible for providing specialized HVAC and/or refrigeration work.

Later, under Inclusion:

The more routine adjustments, maintenance and repair to systems is typically performed by positions allocated to the Maintenance Mechanic series...

Further, under, Exclusions:

Excluded from this series are the following types of positions:

1. Maintenance Mechanic positions whose work may include HVAC and/or refrigeration repair and maintenance, but are not assigned advanced systems control work involving significant portion of the time;

Raymond Peters is the HVAC systems expert for the Bayfield-Brule Hatchery and is responsible for maintaining, modifying, remodeling and rebuilding the heating, ventilating, refrigeration, plumbing and electrical systems at that work unit. In carrying out these responsibilities, Peters performs all of the work listed in the position standard as examples of worked performed by a HVAC and/or Refrigeration Specialist, except for the operation of chillers.

Position descriptions of Maintenance Mechanic 3 positions offered as exhibits by respondent for comparison do not compare favorably with Peter's duties and responsibilities. These positions are responsible for basic routine

maintenance and repair of HVAC equipment. In contrast, Peter is responsible for major repairs, modifying, remodeling and rebuilding HVAC systems. Clearly these MM 3 positions, offered for comparison, perform at a lower level and with less responsibility than Peters.

Both respondent and appellant submitted position descriptions of HVAC positions at various state institutions for comparison. In two instances, they submitted the same position description. While some of these positions are at larger units or complexes, the level, type and complexity of the equipment employed at these institutions is comparable to the equipment used at the hatchery. And the work performed in these positions is no more involved, complicated or complex than that performed by Peters. For example, Peters monitors and controls the hatchery's HVAC systems using a central computer system terminal, comparable to the C-85 computer system used by the HVAC Specialist at UW-Oshkosh. Also, Peters work activities are comparable to work activities performed by HVAC positions at UW-River Falls and Waupun Correctional Institution. Similar to Peters, these positions do not refer to chiller units, but rather to controls, thermostats, valves, dryers, sensors, coils, pumps, pipes, dampers, motors, fans, boilers and electrical generation control systems and equipment. It is clear from these position descriptions that Peters is responsible for similar systems and equipment, and performs work equivalent to or higher than the work requirements of these two positions.

While DER attempted to describe Peters position in allocation pattern 4 of the MM3 specifications, Peters' work is at a higher level than described in this classification specification. Peter works at the level which distinguishes the maintenance Mechanic series from HVAC Specialists. Peters spends a significant portion of his time performing advanced work on HVAC equipment and systems. Therefore, based on the complexity of the equipment at the fish hatchery, the level of responsibility and depth of actual work performed by Peters in carrying out his duties. Thus, the Commission concludes that Peters' position is more appropriately classified at the HVAC Specialist level.

ORDER

The decision of respondent is rejected and this matter is remanded to respondent for action in accordance with this decision.

Dated: _____, 1993 STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

DONALD R. MURPHY, Commissioner

DRM:jah

JUDY M. ROGERS, Commissioner