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30% B. Perform electrician duties relating to electrical unit operations through assignment or in electrician's absence.

B1. Serve as crew chief for electrical operations.

B2. Independently prepare work site.

B3. Perform service calls.

B4. Make installations safe from electrical hazards in emergency situations and, if possible, make system workable until permanent repairs can be made.

* * * *

20% C. Operate and maintain large sized mechanical equipment utilized by the District electrical unit.

3. The TSM position standard (Joint Exhibit 1) states that positions "allocated to this series are primarily responsible for providing specialized traffic signal maintenance and repair under the direction of a journeyman electrician." This position standard includes the following definitions:

TRAFFIC SIGNAL MECHANIC-ENTRY

Under close, progressing to limited supervision by a journeyman electrician, installs, maintains and repairs traffic signals. Positions also operate and maintain larger size mechanical equipment utilized by the electrical unit, including trucks, trailers and hoists. Other types of work may include the following: assist in the installation and maintenance of traffic signing on state and federal highways, assist the electrician with major wiring projects, conduct vehicle traffic counts and salvage damaged signal equipment.

TRAFFIC SIGNAL MECHANIC-JOURNEY

Under the general supervision of a journeyman electrician performs all the work of a Traffic Signal Mechanic-Entry position, and in addition, is able to independently prepare a job site for the electrician. Traffic Signal Mechanic-Journey positions could be dispatched to any job that arises and know what to do and how to handle the situation. This type of independence is generally gained through one to two years of experience as a Traffic Signal Mechanic or other comparable experience in traffic signal maintenance.

The TSM-Entry "examples of work performed" includes: "make installations safe from electrical hazards in emergency situations."

4. The ET classification specification (Joint Exhibit 3) "inclusion" statement includes "positions that perform sub-technical to technical work in the field of architecture/engineering in the planning, design, construction, operation and maintenance of transportation facilities [which] include, but are not limited to: state highways, bridges, rest areas, and airports." The "exclusions" from this series includes:

Technical program support assistants, more appropriately identified by other class series such as Communication Technician, Electronic Technician, Mechanician, Instrument Maker, Maintenance Mechanic or Craftsworker, etc., whose work involves complex and specialized electronic, electrical, mechanical, communication or craft functions involving the design, installation, systems analysis, repair, calibration, testing, modification, construction, maintenance or operation of equipment, machines, control systems, instruments or other comparable devices. These positions do not provide direct technical assistance to professional architectural or engineering employes, activities and programs.

5. The Job Content Questionnaire Composite" for Maintenance Mechanic 2 that was completed during the survey includes the following:

Narrative:

There is some variation between Districts, depending upon the number and availability of journeymen or apprentice electricians, regarding service calls by maintenance mechanic. In District 5, the maintenance mechanic makes emergency service calls to repair or restore traffic signal or flasher operation when the electrician is unavailable or busy on other calls. In District 5 the maintenance mechanic also functions occasionally as a lead worker on re-lamping projects and when other crews (such as sign crews) assist in knockdown replacements and removal of temporary bridge signals.

6. Appellant's position is better described by the TSM-Journey definition than by the ET 4 definition, and is more appropriately classified in the former classification.

Conclusions of Law

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

2. Appellant has the burden of proof to establish by a preponderance of the evidence that respondent's decision to reallocate his position to TSM-Journey rather than ET-4 was incorrect.

3. Appellant has failed to sustain his burden of proof, and it is concluded that respondent's decision to reallocate appellant's position to TSM-Journey rather than ET-4 was correct.

Opinion

The TSM series has two levels, entry and journey. Joint Exhibit 1. Appellant's contentions that DER should have created a third level of TSM for DOT when it did its survey and created the TSM position standard, is outside the Commission's jurisdiction. The Commission has the authority to hear appeals pursuant to §230.44(1)(b), Stats., of DER's decisions under §230.09(2)(a), Stats., to reallocate positions. The Commission has no authority to hear appeals of DER's decisions made under §230.09(2)(am), Stats., to conduct surveys and to establish, modify, and abolish classifications, or its decisions under §230.09(2)(b), Stats., to assign and reassign classifications to pay ranges. Therefore, the Commission's role on appeals of reallocations is to determine whether DER's decision that a position is better described by a particular class definition contained in the position standard developed by the survey, rather than by some other definition contained in the position standard, was correct. See, e.g., Kaminski v. DER, 84-0124-PC (12/6/84); Zhe v. DHSS, 80-285-PC (11/19/81), aff'd Dane Co. Cir. Ct., Zhe v. PC, 81CV6492 (11/2/82).

Appellant also contends that his position should have been reallocated to the ET 4 classification. It is clear that the TSM-Journey definition and examples of work performed more specifically describes appellant's position than does the ET 4 class specification.

While appellant attempts to analogize his work to that described in the ET 4 definition, the record does not support a finding that his work assembling, erecting, installing, operating, and maintaining traffic control and related equipment is in the field of "architecture/engineering" as this term is used in the ET class specification. It appears much more probable that appellant's position fits into the "exclusions" section of this specification which includes crafts-type positions:

[w]hose work involves complex and specialized electronic, electrical, mechanical, communication or craft functions

involving the design, installation, systems analysis, repair, calibration, testing, modification, construction, maintenance or operation of equipment, machines, control systems, instruments or other comparable devices. These positions do not provide direct technical assistance to professional architectural or engineering employes, activities and programs.

Appellant's position performs electrical functions involving the installation, maintenance, repair, etc., of "control systems" and does "not provide direct technical assistance to professional architectural or engineering employes, activities and programs."

Appellant contends that much of the TSM work is analogous or comparable to work performed by positions classified in the ET series. For example, in his posthearing brief, he states:

Reading through the Classification Specifications for Engineering Technician 4-Construction/Design Technician shows many duties that are similar to mine. These duties include assisting the construction project manager (electrician), occasionally function as the project leader, direct people, interpret plans, direct and train, keep records, coordinate utility work, inspect, etc. I am not picking out bits and pieces from the Classification Specification. These duties are the major work of the engineering Technician 4-Construction/Design Technician.

However, it is not uncommon for class specifications to have overlapping general provisions. There are undoubtedly many positions having nothing to do with engineering programs that "direct people, interpret plans, direct and train, keep records," etc. Appellant admitted he does not perform the ET 4 examples of work performed except in the most general sense, and for the most part his job is not involved in construction or design-related activities. Appellant also points out that the ET series includes positions performing traffic sign activities, such as the Sign Crew Chief as a representative ET 3 position. DER's expert witness could not explain why these jobs were considered to perform work "in the field of architecture or engineering" as required by the ET class specification. This appears to be somewhat anomalous. However, the fact remains there are not representative traffic sign positions above the ET 3 level (appellant is seeking an ET 4 classification) and there remains the more specific identification of appellant's position in the TSM position standard and in the ET "exclusions."

Appellant points out that he works very independently with very little, if any, oversight from an electrician. However, this appears to be consistent with the concept of general supervision envisioned by the TSM-Journey

definition, as testified by the DER expert witness, i.e., the electrician retains ultimate responsibility, but does not provide direct oversight of each job.

Appellant has identified certain aspects of his job which appear to be unique compared to otherwise comparable positions in other districts, primarily his leadwork functions and the performance of electrician's functions in the electrician's absence.¹ However, taken together, these constitute no more than 30% of the job. Although the TSM-Journey position standard does not specifically identify either of these activities at this level, it still identifies the majority of appellant's position. These additional duties also do not put this position in the ET 4 classification.

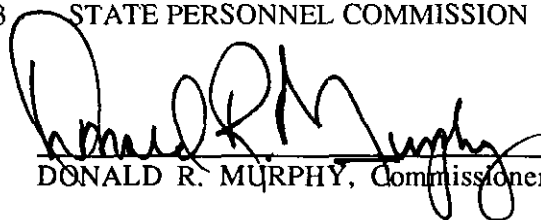
While these additional activities do not place appellant's position at the ET 4 classification, they apparently distinguish appellant's position from the other TSM-Journey positions in the other transportation districts. While it is outside the scope of the decision to address classifications other than TSM-Journey and ET 4, the Commission suggests that, if this has not already been done, other classifications be evaluated to determine if there is another one available that would recognize these additional responsibilities.

Order

Respondent's action reallocating this position to TSM-Journey is affirmed and this appeal is dismissed.

Dated: August 11, 1993

AJT:irm

STATE PERSONNEL COMMISSION

DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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¹ The record reflected that appellant does not perform certain legal functions that must be performed by a licensed electrician, such as signing certain forms.

**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.