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MICHAEL C. CRAMEY, *

Appellant, *

v. *

Secretary, DEPARTMENT OF *

EMPLOYMENT RELATIONS, *

Respondent. *

Case No. 92-0268-PC *

* * * * *

FINAL
DECISION
AND
ORDER

This matter is before the Commission on respondent's motion for summary judgment, filed March 24, 1993. Based on the documents and arguments filed by the parties, it appears there are no material facts in dispute and respondent is entitled to judgment as a matter of law.

FINDINGS OF FACT

1. This is an appeal pursuant to §230.44(1)(b), Stats., of the reallocation of appellant's position to Forestry Technician 4 (FT 4). The issue for hearing is whether the decision to reallocate appellant's to FT 4 rather than Forestry Technician 5 (FT 5) was correct.

2. The FT class specification includes the following definitional language with respect to the FT 5 classification:

This is advanced technical level forest management work. Positions at this level perform, a majority of time, the most complex forestry management work including planning, coordinating and implementing with significant delegation from professional or supervisory level positions.

3. Appellant has admitted he does not meet this requirement of performing the most complex forestry management work a majority of the time.

4. The FT class specification defines "Forest Management" as "providing customers with technical assistance in tax law compliance ... develop maps delineating timber types, topographic features, roads and other pertinent information..." This definition does not include either forest fire control or park enforcement duties.

5. The position summary in appellant's position description (PD) states that: "[t]his is responsible skilled work in forest fire protection and law enforcement...." This PD contains a 20% allocation for forest management activities. Almost all of the remainder of the PD involves fire control activities except 15% law enforcement and 3% other functions.

6. The FT 4 definition includes the following allocation: "2) objective level full range of forest fire control duties which in most positions would typically include some forest management duties or comparable advanced level activities in fire administration such as training."

7. Appellant's position is better described by the FT 4 definition than by the FT 5 definition.

CONCLUSIONS OF LAW

1. The reallocation of appellant's position from Forest Fire Control Assistant 2 to FT 4 is appealable to this Commission pursuant to §230.44(1)(b), Stats.

2. Respondent's decision to reallocate appellant's position from FFCA 2 to FT 4 was correct on the basis of the relevant class specification and the duties and responsibilities of appellant's position, and must be affirmed.

3. Considerations outside those set forth in the foregoing conclusion are outside of the Commission's jurisdiction under §230.44(1)(b), Stats., and cannot be considered on this appeal.

OPINION


Section 230.44(1)(b), Stats., authorizes the Commission to hear appeals of decisions made by the Secretary of DER pursuant to §230.09(2)(a), Stats., which provides for the Secretary to allocate, reallocate, and reclassify positions. The Commission has no authority to hear appeals of decisions of the Secretary made under §230.09(2)(am) to conduct surveys, and establish, modify, and abolish classifications. Therefore, if a position has been properly reallocated based on its duties and responsibilities and the class specifications defining the classifications in question, the decision must be affirmed, since the Commission has no jurisdiction over respondent's decisions with respect to the conduct of surveys and the establishment, abolishment, and modification of classifications. Given the findings that appellant's position is properly classified at the FT 4 level based on the existing class specification, the Commission must affirm respondent's reallocation decision.

ORDER

Respondent's action reallocating appellant's position to the FT 4 level is affirmed, and this appeal is dismissed.

Dated: June 4, 1993

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

AJT:rcr


DONALD R. MURPHY, Commissioner

Parties:

Michael Cramey
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Foxboro, WI 54836

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.