

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 NICHOLAS NESSLER and *
 DELORES HEINEMAN, *
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 Appellants, *
 *
 v. *
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 Secretary, DEPARTMENT OF *
 HEALTH AND SOCIAL SERVICES, *
 and Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondents *
 *
 Case No. 93-0004-PC *
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 * * * * *

DECISION
 AND
 ORDER

In November of 1992, appellants requested the reclassification of their positions from Laundry Worker 2 (LW 2) to LW 3. Such requests were denied and appellants filed a timely appeal of these denials. A hearing on this appeal was held on June 10, 1993, before Laurie R McCallum, Chairperson. The parties were permitted to file briefs and the briefing scheduled was completed on July 23, 1993

The record shows that appellant's duties, as described in the position descriptions signed by them in November of 1992 (Respondent's Exhibits B and C), consisted of: receiving and distributing clean linen and clean patient clothing (40%); operation of sewing room (40%); completion of inventory of linens and patient clothing (10%), and directing and evaluating patient helpers, operating washers and dryers, and ironing (10%). The following changes in the duties and responsibilities of appellant's positions occurred during the time period relevant to this appeal:

1. Previously, patient clothing had been marked for identification elsewhere in the institution. This task had been transferred to appellants' positions and required the typing of patient names into a computer terminal to generate a label and the use of a heat press to affix the label to a garment.

2. There was an increase of the number of patient helpers under the direction of appellants' positions from 1 to 2 or 3.
3. Previously, patients' personal clothing and institution draperies had been sent outside the institution for cleaning. This task had been transferred to appellants' positions.
4. Appellant's positions were assigned sewing duties previously contracted out, e.g., zipper replacement.

The other changes cited by appellants in support of their reclassification had been assigned to appellants' positions after the effective date of their reclassification request, i.e., after November of 1992, and could not be considered.


The LW 2 (Respondent's Exhibit D) and LW 3 classification specifications (Respondent's Exhibit E) specify the types of duties considered LW 3-level duties. Some of the duties assigned to appellant's positions represent LW 3-level duties, i.e., certain clothing and linen inventory and record-keeping,, marking, less routine sewing such as zipper replacement, washer and dryer operation, and directing and evaluating the work of patient helpers. However, in order to satisfy the requirements for classification at the LW 3 level, a position must carry out these LW 3-level duties at least 75% of the time. Appellants did not show that their positions carry out these responsibilities at least 75% of the time. Instead, the record shows that appellants' positions spend the majority of time unloading clean linens and patient clothing; sorting, folding, and storing clean linens; sorting and distributing patient personal clothing; inspecting clean linens; and performing routine sewing and fabricating duties. These are not LW-3 level duties.

The duties and responsibilities of appellant's positions during the time period relevant to this appeal do not satisfy the requirements for classification at the LW 3 level.

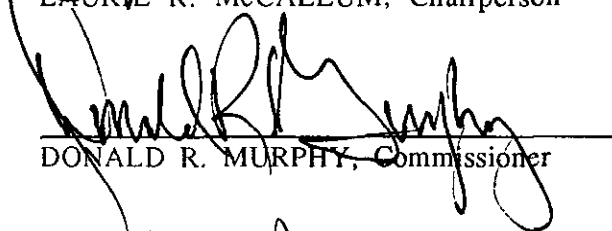
Order

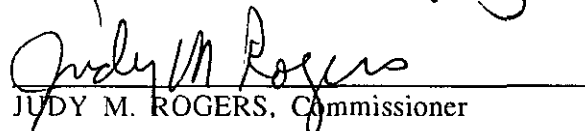
The action of respondents in denying the subject reclassification requests is affirmed and this appeal is dismissed.

Dated: October 20, 1993 STATE PERSONNEL COMMISSION


LAURIE R. McCAELUM, Chairperson

LRM:lrn


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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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.)