

STATE OF WISCONSIN

PERSONNEL COMMISSION

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LEANNE J. LEBOEUF,  
                   Appellant,

v.

Secretary, DEPARTMENT OF  
 NATURAL RESOURCES,

and

Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,

                  Respondents.

Case No. 93-0026-PC

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DECISION  
 AND  
 ORDER

This case involves an appeal of a denial of a reclassification request. The issue for hearing is "whether the respondents' decision to deny appellant's request to reclassify her position from Program Assistant 1 (PA 1) to Program Assistant 2 (PA 2) was correct." Prehearing conference report dated April 9, 1993.

Appellant is employed in a position in Green Bay at the Lake Michigan District of the Department of Natural Resources (DNR). The appellant's position is classified as a PA 1. The agency's working title for this position is "Main Receptionist - License Sales." The duties and responsibilities of this position are accurately summarized in a position description (PD) appellant signed on March 30, 1992. Respondent's Exhibit 3. The position summary and main goals are set forth in this PD as follows:

Responsible for issuing, maintaining inventory, reconciling daily remittances and maintaining bank account for licenses assigned to the District Office. Provide administrative assistance to the Law Enforcement Safety Specialist by serving as liaison between instructors, students and Safety Specialist; maintaining vast knowledge of the four Safety Programs and how they affect the public and instructors. Issue duplicate student education certificates for the four Safety Programs.

Provide information to the public in person or over the telephone, answer questions concerning Wisconsin's recreational areas, and opportunities. Serve as information contact to public at main information center.

Time%            Goals and Worker Activities

35%            A.     Operation of license sales activities and public information services.

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40%            B.     Assist LMD Law Enforcement Safety Specialist in the administration of the recreation safety programs.

\* \* \*

20%            C.     Operation of main telephone, receptionist and information center.

\* \* \*

5%            D.     Provision of additional clerical support.

The PA 2 class definition states that:

Positions allocated to this level are distinguished from the Program Assistant 1 level based on the following criteria: (1) the defined program area for which this level is accountable is greater in scope and complexity; (2) the impact of decisions made at this level is greater in terms of the scope of the policies and procedures that are affected; (3) the nature of the program area presents differing situations requiring a search for solutions from a variety of alternatives; and (4) the procedures and precedents which govern the program area are somewhat diversified rather than clearly established.

Appellant has the burden of proof and must establish by a preponderance of the evidence that respondent erred in its denial of her request for reclassification and that her position is more appropriately classified at the PA 2 level. The record does not reflect that appellant satisfied her burden.

Appellant's position generally is comparable to the only other PA 1 job in the record, one held by Jane Ennis at the Horicon Area Headquarters. This position includes a 40% goal of serving as the lead receptionist, which includes

the provision of information to the public, handling snowmobile, ATV and boat registrations, selling hunting and fishing licenses, etc., which is comparable to a good deal of appellant's work. The Horicon position also is responsible for other recordkeeping and clerical type functions.

In her presentation at the hearing, appellant stressed that she has to maintain current knowledge of statutes and codes, and is sometimes required to interpret the law when deciding whether to issue a particular kind of license. She cited the example of deciding whether to issue a resident armed forces fishing license pursuant to sec. 29.09(12)(b), Stats., which provides for issuance of such a license "to any member of the U.S. armed forces applying for this license who exhibits proof that he or she is in active service with the armed forces and that he or she is a resident on furlough or leave." However, the record reflects that it is typical for a PA 1 to be issuing various licenses, and that this activity includes the determination of whether the applicant meets the criteria for a particular category of license.

The PA 2 position in the LaCrosse area office, occupied by Carol Strait, has an 80% allocation for the provision of program assistance to the water management specialist. Ms. Steinmetz testified that this activity shows a higher degree of programmatic activity, independence and impact, consistent with the PA 2/PA1 distinction set forth above in the PA 2 definition. She pointed out, for example, that this position has the authority to issue minor permits without the involvement of the water management specialist. Based on the record before the Commission, appellant has not established that respondent's evaluation of this position, and its determination that it is at a higher level from a classification standpoint than her position, was incorrect.


The Commission also has considered the exhibits appellant submitted, which illustrate the kinds of issues with which she deals, primarily in the area of records management and assisting in the administration of the recreation safety programs. While these examples reflect responsible work, they are not outside the scope of the PA 1 definition of "work of moderate difficulty" and the PA 1 examples of work performed - e.g., "[p]erforms most intricate clerical operations, processing documents and performing other clerical operations where comprehensive knowledge of legislation, or organization is required."

ORDER

Respondent's action denying appellant's request for reclassification is affirmed, and this appeal is dismissed.

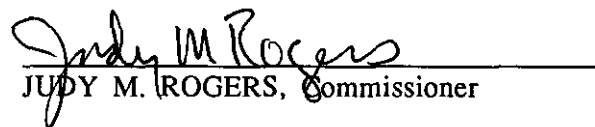
Dated: November 23, 1993

STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

AJT:ack

  
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.)