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STATE OF WISCONSIN

PERSONNEL COMMISSION

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MARY S. RIPP,

Appellant,

v.

Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondent.

Case No. 95-0047-PC

\* \* \* \* \*

DECISION  
AND  
ORDER

The appellant seeks reallocation of her position to the Ranger 2 rather than the Ranger 1 classification. The two classifications are distinguished by the requirement at the Ranger 2 level that the incumbent perform "actual law enforcement activities... for at least 60% of the position's time." (Emphasis in original.) The specifications define "actual law enforcement activities" as follows:

Random patrols on state land and water. Enforcing laws, rules and regulations. Issuing verbal and written warnings and/or citations to visitors to achieve compliance with laws and regulations. Responding to law enforcement related complaints. Directing the activities of permanent and limited term law enforcement personnel. Seizing, holding and disposing of evidence for court. Testifying in court. Checking licenses, tags, permits and registrations. Reviewing citations for completeness and accuracy. Developing reports related to law enforcement activities within the park/forest. Conducting investigations of accidents, fires and incidents on state lands. Acting as Court Officer. Monitoring chain of evidence for all items seized and conducting proper disposition of items. Attending and presenting law enforcement training. Serving as a district armorer. Providing law enforcement assistance to law enforcement officers outside of normal park/forest law enforcement duties. Working with Conservation Wardens.

The appellant works as a Park Ranger at Potawatomi State Park. The focus of this case is whether the appellant has met her burden of showing that, at the time relevant to the reallocation decision, which was effective on January 22, 1995, she spent at least 60% of her time performing duties which fit the class specification's definition of law enforcement activities.

Goals A (Law Enforcement Activities, 35%) and Goal C (Direct Limited Term Employees, 5%) of appellant's position description (Respondent's Exhibit 2) fit the definition of law enforcement activities. The appellant contends that various other duties which are described in the position description as falling within Goal B (Maintenance Activities, 40%), Goal D (Information and Sales Activities, 10%) and Goal E (Administrative Duties, 5%) also satisfy the definition. Most of these additional duties may satisfy a very general definition of law enforcement activities, but do not meet the specific definition found in the Ranger specifications. The easiest way to analyze the issue is by relying on the appellant's time reports which required her to assign codes to the time she spent on various activities.<sup>1</sup> The only specific evidence presented by the appellant which was tied to the 60% requirement for the higher classification was an analysis of her time reports for fiscal year 1994-95, i.e. the one year period ending on June 30, 1995. According to the appellant, these time reports indicate the following:

- 1919 total work hours (does not include vacation, sick leave or compensatory time off)
- 788.5 hours for code PRK 28 The parties are in agreement that this time code falls entirely within the law enforcement definition.
- 163.5 hours for code PRK 14 This coding is for administrative duties. The appellant contends that the following tasks under this heading fit the law enforcement definition:
  - a. Interacting with camp hosts, a group of volunteers who assist at the state park (at least 40 hours).
  - b. Hiring and supervising limited term employes (although the appellant did not provide an estimate of the amount of time on this activity, the Commission will assign it 40 hours because of the time spent on the other activities under this heading). The parties are in agreement that this time code falls entirely within the law enforcement definition.

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<sup>1</sup>The appellant's position description includes time percentages according to major goals, but is not broken down by individual worker activities.

- c. Talking with school children and other groups (between 24 and 36 hours).
- d. Ordering and inventorying uniforms (between 24 and 36 hours).
- e. Following-up on citations after they have been returned from the court (approximately 40 hours).
- f. Updating and distributing the park's emergency action plan (approximately 15 hours).

60 hours for code PRK 21 This coding is for "equipment." The appellant testified that 50% of the 119.5 hours she spent on these responsibilities during the fiscal year were law enforcement activities. The category consists of equipment maintenance, primarily on the park squad car and pick-up truck.

140 hours for code PRK 13 This coding is for "visitor services" which represented the time during the period from October through May when the appellant was the sole park employe on duty and involved handing out stickers and providing information to park visitors.

12 hours for PRK 23 This coding is for "interpretive programs" which included sitting down with children and describing the park and its personnel to them.

175 hours for code PRK 30 This coding is for training. The parties are in agreement that this time code falls entirely within the law enforcement definition.

Sixty percent of 1919 hours is 1151 hours. Therefore, in order for the appellant to sustain her burden of proof, she must establish that she spent at least 1151 hours during the fiscal year on law enforcement activities. The parties agree that "law enforcement activities" include the following codes: PRK 28 (788.5 hours), PRK30 (175 hours) and that part of PRK 14 relating to directing the activities of limited term law enforcement personnel. Even if all of the time spent on hiring and supervising LTEs can be said to fall within the scope of "directing the activities of... limited term law enforcement personnel," these three categories only total 1003.5 hours. Codes PRK 21 (equipment), PRK 13 (visitor services), and PRK 23 (interpretive program) do not fit within any portion of the definition of "law enforcement activities." Within code PRK 14, talking with school children about the park and ordering and inventorying uniforms also do not meet the definition. Even if all three of the remaining

activities within the PRK 14 coding (interaction with camp hosts, following up on citations, and maintaining the emergency action plan) could be considered law enforcement activities, the appellant still would be below the 60% floor required for classification at the Ranger 2 level. Even so, the appellant has not sustained her burden of establishing that all three of these remaining PRK 14 activities fall within the definition. While some of the appellant's interaction with camp hosts may include receiving law enforcement related complaints identified by the camp hosts, the appellant's interaction with the camp host volunteers also must include a variety of other types of contacts arising from their maintenance work. The appellant also testified that she reviewed citations and courtesy notices after they had been returned by the courts, cleaned them up and then sent them out to the various recordkeeping agencies. With such a brief description, it is difficult to say that none of this function involves "reviewing citations for completeness and accuracy."<sup>2</sup> However, that portion of the follow-up work that involves transmitting the documents to other agencies is of a clerical nature and does not fall within the law enforcement definition.

The appellant referenced various duties that are considered "law enforcement" for purposes of the (Natural Resources) Warden classification but are not considered "law enforcement activities" under the Ranger specifications. The respondent offered testimony differentiating the Ranger positions because they often perform a significant percentage of their time performing park maintenance and Program Assistant responsibilities. The Commission's responsibility in this matter is to apply the Ranger class specifications as they are written. Those specifications include a very specific definition of "law enforcement activities." The Commission must apply and interpret that definition. The Commission lacks the authority to modify that definition. Zhe et al. v. DHSS & DP, 80-285-PC, 11/19/81; affirmed by Dane County Circuit Court, Zhe et al. v. PC, 81-CV-6492, 11/2/82.

The appellant argued that she is performing law enforcement activities whenever she is wearing her uniform. This contention is also inconsistent with the definition found in the specifications.

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<sup>2</sup>This phrase is part of the definition of "actual law enforcement activities" in the Ranger specifications.

Finally, the Commission notes that respondent filed tabulations of appellant's time code reports for various periods. These reports also do not support a conclusion that the appellant met the 60% requirement. Because the appellant has not sustained her burden of proof, the respondent's decision must be affirmed.

ORDER

The respondent's decision is affirmed and this matter is dismissed.

Dated: December 7, 1995 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

KMS:kms  
K:D:Merits-reall (Ripp)

  
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 (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) 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.)

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