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LARRY J. SEVERTSON,

Appellant,

v.

Secretary, DEPARTMENT OF  
NATURAL RESOURCES, and  
Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondents.

Case No. 95-0052-PC

\* \* \* \* \*

DECISION  
AND  
ORDER

This matter is before the Commission as an appeal from a reclassification denial. In April of 1994, the appellant submitted a request to his supervisor for reclassifying the appellant's position from Forestry Technician 4 to 5. Respondents ultimately denied the request and appellant filed an appeal.

The term "reclassification" is defined in §ER 3.01(3), Wis. Adm. Code as the "assignment of a filled position to a different class... *based upon a logical and gradual change to the duties or responsibilities of a position...*"(emphasis added) There has been no change in the appellant's position subsequent to the classification survey, effective February of 1992, that allocated the appellant's position to the Forestry Technician 4 level.<sup>1</sup> Because there has been no change in duties subsequent to the reallocation decision, the appellant has failed to sustain his burden of proof in this matter. See Henderson et al. v. DHSS & DER, 92-0804-PC, 8/18/94.

Even if the appellant had established that there was a change in duties, he still would be unable to meet the classification requirements for the Forestry Technician 5 level. The relevant portions of the class specifications read as follows:

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<sup>1</sup>Appellant filed an appeal of the 1992 reallocation decision with the Commission (Case No. 92-0236-PC) and in a ruling dated August 4, 1993, the Commission granted respondent's motion for summary judgment and dismissed the appeal.

**Forest Fire Control (Administration)** - Forest fire control activities include presuppression, suppression, and prevention. This includes such activities as the operation and maintenance of complex fire fighting equipment; directing fire operations as the Incident Commander in the absence of the Forester/Ranger; managing subarea Emergency Fire Warden Programs; conducting inspections of properties, recreation areas, industrial sites, field operations, railroad right-of-way and other hazard areas for fire management purposes; and other related activities.

**Forest Management** - These activities include providing customers with technical assistance in tax law compliance including project inspections and evaluations, management plans, file updating; contacting landowners to determine compliance; answering questions from public regarding forest management practices, tax laws, cost sharing opportunities, insect and disease problems; checking aerial photos of less complex tax law entities to determine property location, boundaries, and timber types; independently collect and calculate field data for less complex properties and assist with data collection for complex properties; develop maps delineating timber types, topographic features, roads and other pertinent information; conduct independent timber cruising of less complex timber stands and assist in cruising more complex stands; and independently select and mark timber for harvesting.

#### **DEFINITIONS**

**FORESTRY TECHNICIAN 4** - Positions allocated to this level perform: 1) objective level full range forestry management duties; 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; or 3) function as the Field Foreman at a major nursery.

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**FORESTRY TECHNICIAN 5** - This is advanced technical level forest management work. Positions at this level perform, a majority of time, the most complex forest management work including planning, coordinating and implementing with significant delegation from professional or supervisory level positions. Work is distinguished from lower level forest management work by the amount of complex forest management work assigned; the assigned responsibility for developing, coordinating and implementing the forest management plan; and the high degree of autonomy delegated the position due to the individual's recognized experience and expertise. [emphasis added]

The appellant's position description provides that appellant spends 32% of his time on fire suppression responsibilities, 18% on pre-suppression, 25% on for-

est fire prevention, 7% on forest management and 10% on administration. The appellant contended that certain of his activities (A4 and A5) which are listed under the fire suppression goal fall within the definition of "forest management" and are not included within the definition of "forest fire control (administration)." Even if this contention is accepted, the appellant has failed to show that he spends the majority of his time performing forest management responsibilities as is expressly required for meeting the Forestry Technician 5 classification level.

In light of these conclusions, it is unnecessary to address the sub-issue of effective date set forth in the agreed upon statement of issue.

ORDER

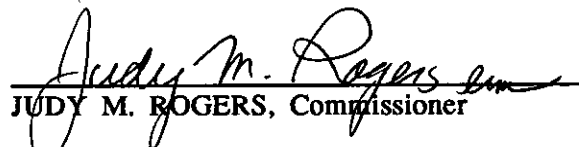
Respondents' decision denying appellant's reclassification request is affirmed and this appeal is dismissed.

Dated: October 6, 1995 STATE PERSONNEL COMMISSION

  
LAURIE R. MCCALLUM, Chairperson

KMS:kms  
K:D:Merits-reclass (Severtson)

  
DONALD R. MURPHY, Commissioner

  
JUDY M. ROGERS, Commissioner

Parties:

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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.)

2/3/95