

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KAREN ROSNECK, Appellant,

vs.

UNIVERSITY OF WISCONSIN – MADISON, Respondent.

Case 24
No. 70902
PA(der)-275

DECISION NO. 33345-B

Appearances:

Karen Rosneck, 5002 Sheboygan Avenue #128, Madison, Wisconsin, appeared on her own behalf.

Sierra Beckles Young, Office of Legal Affairs, University of Wisconsin – Madison, 361 Bascom Hall, 500 Lincoln Drive, Madison, Wisconsin, appeared on behalf of the University of Wisconsin – Madison.

DECISION AND ORDER

Karen Rosneck filed an appeal with the Wisconsin Employment Relations Commission, pursuant to § 230.44(1)(b), Stats., asserting that the University of Wisconsin - Madison should have reclassified her Library Services Assistant – Advanced position to the classification of Librarian as she requested. The Commission assigned the appeal to Examiner Karl R. Hanson, who conducted a hearing on April 5 and 6, 2016, in Madison, Wisconsin.¹ The parties filed written arguments and responses, the last of which was received on May 4, 2016.

On June 15, 2016, Examiner Hanson issued a Proposed Decision and Order dismissing the appeal. Objections were filed as was a response and the matter became ripe for Commission action on July 26, 2016.

¹ For economy of the Commission's resources and given the common witnesses among them, the Commission ordered the hearing in this matter be consolidated with the hearing for another appeal brought by Rosneck after the Office of State Employment Relations ("OSER") reallocated her position to the Library Services Assistant - Advanced classification following a classification survey, and with hearings for two similar appeals brought by Linying Wu against OSER and the University of Wisconsin - Madison.

Being fully advised in the premises, the Commission makes and issues the following:

FINDINGS OF FACT

1. Karen Rosneck is employed by the University of Wisconsin - Madison in a classified civil service Library Services Assistant – Advanced (“LSA-Adv”) position.
2. In 2011, the University of Wisconsin - Madison rejected Rosneck’s request that her LSA-Adv position be reclassified to a Librarian position in the classified civil service.
3. OSER did not make any decision regarding Rosneck’s 2011 reclassification request.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction to review this matter pursuant to § 230.44(1)(b), Stats.
2. The University of Wisconsin – Madison is properly the sole Respondent in this matter.
3. The majority of Karen Rosneck’s duties at the University of Wisconsin - Madison are not best described as the duties of a Librarian.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

1. Karen Rosneck’s January 19, 2016 motion to amend Commission Decision No. 33345-A, issued December 21, 2015, and name the Office of State Employment Relations as a “nominal Respondent” is denied.
2. Karen Rosneck’s appeal against University of Wisconsin - Madison’s 2011 decision to deny her position reclassification request is dismissed.

Dated at Madison, Wisconsin, this 18th day of August 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.44(1)(b), Stats., provides that the Commission has jurisdiction to hear appeals from state employees (including those employed by the University of Wisconsin - Madison (hereinafter “UW – Madison”)) alleging that the director of OSER², or an appointing authority delegated such power by OSER, did not properly classify the employee’s civil service position. The appellant has the burden to demonstrate that her position is correctly classified at the requested level. It is not sufficient to meet this burden by merely showing that UW - Madison’s decision to classify the position at a particular level was incorrect.

Karen Rosneck alleges that in 2011 the UW - Madison should have granted her request to reclassify her LSA-Adv position to a Librarian position in the UW - Madison’s classified civil service.

Rosneck is responsible for tasks associated with the acquisition of materials for the UW - Madison’s general library system. OSER’s class specification for the position of Librarian provides that the employee must perform the full scope of duties related to one or more librarian functions. Those functions include acquisitions among others. To perform the full scope of a function’s duties, the employee must possess broad discretion.

Rosneck has discretion to determine what physical copy of a work to obtain and from what vendor. She is not responsible, however, for the full scope of acquisition duties in that she does not decide what works to acquire or manage a budget associated with the acquisition of works. The acquisition duties she performs are complex, but they are dictated by established procedures.

Librarians in Rosneck’s division perform many of the same acquisition tasks performed by Rosneck, with additional broad authority for the supervision of employees and/or the management of special collections. Rosneck does not supervise other employees or manage a special collection, which are other duties of a Librarian.

To meet her burden in this matter, Rosneck must demonstrate that the majority of her position’s duties “best fit” the Librarian classification. She has not met her burden.

Rosneck agrees that her most recent position description properly describes her duties. In her arguments filed following the hearing, Rosneck concedes that but for her expertise in Cyrillic alphabet languages, the majority of the duties she performs are properly allocated to a paraprofessional (the LSA-Adv) classification. The record in this matter supports such a conclusion.

Rosneck avers that her expertise in Cyrillic alphabet languages is best described as professional work. She asserts that the LSA-Adv position is paraprofessional and a Librarian

² Now, the administrator of the Department of Administration’s Division of Personnel Management. In July 2015, OSER was absorbed into the Department of Administration (“DOA”) as its Division of Personnel Management.

position is professional. She argues that her position should be that of a Librarian because her job duties require professional language skills.

Rosneck's expertise in non-Roman, Cyrillic alphabet languages is a professional skill. Her skill was acquired after a prolonged course of study.

While it is necessary for her to possess a professional skill – expertise in Cyrillic languages – to perform the duties of her position, those duties are still not best described as the duties of a Librarian. The Librarian classification contains no requirement for an employee to possess professional language skill. Instead, the Librarian classification requires that an employee possess professional skills in the functions of a Librarian such as acquisitions or management of a special collection.

Rosneck's position and situation can be distinguished from those of former UW - Madison Librarian Milan Radovich. In 1983, the Personnel Commission, a predecessor of this Commission, determined that Radovich's position should be reclassified as Librarian. In that matter, the classification specification of Librarian was different and Radovich demonstrated that he performed the full and broad scope of duties associated with a Librarian's acquisition function, including the authority to decide what materials to acquire. After his retirement, Rosneck assumed some of Radovich's duties, but she did not assume his authority to decide what materials to acquire. That decision-making authority was assigned to other Librarians who perform selection duties.

Rosneck's work is complex and requires her to use language skills acquired after a prolonged course of study. The duties and tasks she performs using that professional skill, however, do not rise to the level of a professional Librarian's duties contemplated by the classification specification for that position.³

Dated at Madison, Wisconsin, this 18th day of August 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

³ While it may seem incongruous that she is required to possess a professional skill to perform what is defined as a paraprofessional job, the same would be true of a clerical employee who must possess a complex foreign language skill in order to complete non-professional clerical duties.