

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DAN EHLERT, Appellant,

vs.

STATE OF WISCONSIN, DEPARTMENT OF ADMINISTRATION, Respondent.

Case ID: 315.0005

Case Type: PA

DECISION NO. 36436

ORDER ADOPTING ARBITRATOR'S DECISION

The above matter, arising from Respondent's decision not to reallocate the Appellant's position of Offender Records Associate to Corrections Sentencing Associate was the subject of an arbitration proceeding on September 26, 2016, pursuant to § 230.44(4)(bm), Stats. At the conclusion of the proceeding, the arbitrator orally rendered a decision upholding the Respondent's decision. The decision of the arbitrator stands as the decision of the Commission.

Signed at the City of Madison, Wisconsin, this 28th day of September 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

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NOTIFICATION OF ARBITRATOR'S DECISION

On September 26, 2016, I served as the arbitrator in the above matter. The notice of hearing established that this matter would be heard as a contested case. Prior to the start of the hearing, however, Appellant Dan Ehlert elected for this matter to be heard by arbitration pursuant to § 230.44(4)(bm), Stats.

The parties agreed the following issue was before the arbitrator:

Should the Department of Administration have reallocated the Appellant's position to Corrections Sentencing Associate as part of its May 29, 2016 survey?

At the conclusion of the arbitration hearing, I rendered an oral decision. I concluded that Ehlert did not meet his burden of proving by a preponderance of the evidence that his position should be reallocated to that of Corrections Sentencing Associate ("CSA").

To prevail in this matter it was Ehlert's burden to demonstrate that his duties are a "best fit" for the CSA classification. *Peterson v. Department of Administration*, Dec. No. 32814-A (WERC, 9/09), citing *Jackson v. State Pers. Bd.*, Dane County Circuit Court, 164-086, 2/26/79. "Best fit" is determined by finding that a majority (more than 50 percent) of the duties of a position are performed at a level comparable to one of the classifications within the series. It was not sufficient for Ehlert to only show that his position is not appropriately classified in the Offender Records Associate classification. *Peterson v. Department of Administration*, Dec. No. 32814-A (WERC, 9/09), citing *Svenssen v. Department of Employment Relations*, Case No. 86-0136-PC (Pers. Comm., 7/22/87).

The record in this matter showed that the CSA classification specification provides that assigned employees perform tasks related to eight general functions. One of Ehlert's

coworkers, who is a CSA, performs tasks related to five of the eight functions. Most significantly, that coworker receives court documents and computes the sentence to be served by each inmate. In his work related to the release of inmates, Ehlert reviews such computations to ensure that each inmate is released at the proper time. He performs this task approximately three months prior to the release date calculated by a CSA. In reviewing such computations, Ehlert has found errors. He is not the final authority for such reviews, however, which are ultimately approved by his supervisor.

Ehlert established that his work to review the sentence computation prior to an inmate's release relates to one, and perhaps two, of the CSA functions. The evidence did not demonstrate that Ehlert spent a majority of his time originally computing sentences to be served, as does his coworker. Based upon this and other evidence received during the hearing, it cannot be said that Ehlert spends a majority of his time performing CSA duties or functions.

Appellant Dan Ehlert's position should not be reallocated to the position of Corrections Sentencing Associate.

Dated at Madison, Wisconsin, this 28th day of September 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Karl R. Hanson, Arbitrator