

OFFICIAL

STATE OF WISCONSIN

BOARD OF PERSONNEL

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CONSTANTINE WIEDENHOEFT, **
 Appellant, **
 vs. **
WILBUR J. SCHMIDT, SECRETARY **
DEPARTMENT OF HEALTH AND **
SOCIAL SERVICES, **
 Respondent. **

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

#73-6

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Hearing was held in this matter by the State Personnel Board on March 16, 1973, in Room 1120-D, State Office Building, 1 West Wilson Street, Madison, with the following Board members present: William Ahrens, Chairman, Percy L. Julian, Jr., and Susan Steininger. Charles Brecher and John Serpe were absent. The appellant appeared personally and without counsel. The respondent appeared by Merril Mooberry, Assistant Counsel, Office of Legal Counsel, State Department of Health and Social Services. The Board having reviewed the transcript of the matter, together with all exhibits admitted during the hearing, makes and files the following:

FINDINGS OF FACT

1. The appellant was employed by the State Department of Health and Social Services, Division of Corrections, Fox Lake Correctional Institution, with a classification of an Account Examiner 3, salary range 1-07.
2. That the program of operating the Correctional Industries program was budgeted as a self-sustaining program. The gross business attributable to the Prison Industries was approximately \$2 million and during the fiscal year 1971-72, operated at a net loss of approximately \$356,000.
3. A committee was appointed by the respondent as Secretary of the Department of Health and Social Services to review the entire Industries program for the purpose of determining the program areas which operated at a loss and further identify those programs which had no inmate rehabilitative value. The committee commenced an intensive study, and as the results of

its deliberations, recommended that the Prison laundry be closed as well as the tailor shop and further suggested a six-month test period be initiated to closely observe other programs which were being operated at a deficit.

4. The appellant, Constantine Wiedenhoeft, was serving in the classification of an Account Examiner 3, salary range 1-07, and his responsibilities included posting of invoices to the sales journal and the posting of invoices to an accounts ledger and generally performing the job functions as an account examiner in the Industries program.

5. The appellant was notified by letter dated December 14, 1972, by Sanger B. Powers, Administrator of the Division of Corrections, that a reduction in the number of employes within the Corrections Industries program was necessary and that positions for elimination would be determined and the layoff process implemented as required by personnel rules. The appellant was further advised of bumping rights to lower classifications and that the anticipated layoffs would be effected January 20, 1973.

6. The appellant's position classification of Account Examiner 3 was one of the positions to be eliminated. There were two such positions within the Industries program, one of which was occupied by the appellant and one by Mrs. E. A. Hahn.

7. In the implementation of the layoff process, layoff evaluation ratings were made for both individuals with Mrs. Hahn receiving a ranking of 478.8 points and the appellant 396.6 points. Based on this evaluation, the appellant's position was eliminated, and by letter dated January 5, 1973, he was officially notified of his layoff effective January 20, 1973.

8. The appellant was further advised that he would be continued in employment on a temporary basis for the purpose of revising the Industries products pricing structure and would be reimbursed on the basis of this work until March 17, 1973, when the final layoff action would be effected.

9. The appellant appealed the layoff action by letter addressed to the State Personnel Board on January 11, 1973.

OPINION

It appears in the transcript of the testimony that the general basis for this layoff appeal by the appellant is that he did not raise any serious objections to the determination to eliminate positions within the Industries program, but that he objected to the layoff action as it affected him personally. He objected to the comparative evaluation ratings. He further stated that because he was subject to attacks of epilepsy and using daily medication for the remission of seizures, that he felt that he should be given additional consideration and that the employing agency should take into account the effects of this medication.

Based on the testimony of Mr. Hanson on behalf of the study committee and Mr. Barrington, the appellant's ultimate supervisor, it is abundantly clear that a certain number of positions needed to be eliminated for the purpose of reducing the fiscal loss incurred within the Industries program. It likewise appears from the testimony that there would be insufficient work for more than one account examiner, and that accordingly, a ranking of the two account examiners within this layoff unit was necessary, and it likewise appears that during the course of the rankings of the two individuals that an objective evaluation was made to fairly and accurately assess capabilities of each individual and that the method and procedures recommended by the State Bureau of Personnel were followed in making the final ratings of the two affected employes. The department likewise attempted to take efforts to relocate and re-employ the appellant, but at the time of the hearing such results were unsuccessful.

The Board's function in layoff appeals is to review the determination of the necessity for layoff as well as the ranking procedures outlined by rule. In performing this function, the Board concludes that the layoff determination was proper and that the implementation thereof was in the manner as required by law.

Based on the foregoing Findings of Fact and Opinion, the Board enters the following:

CONCLUSIONS OF LAW

1. That the layoff action of the respondent of the appellant from his position from Account Examiner 3 was necessary and performed in the manner provided by law.

The Board having made and filed its Findings of Fact, Opinion, and Conclusions of Law, makes and files the following:

ORDER

1. The layoff action of the respondent in terminating the appellant's appointment as outlined in the layoff notice be and the same is hereby affirmed and the appellant's appeal therefrom be and the same is hereby dismissed.

Dated at Madison, Wisconsin this 13 day of August, 1973.

STATE PERSONNEL BOARD, BY



William Ahrens, Chairman