
 *
 KAREN WERTH, *
 *
 Appellant, *
 *
 v. *
 *
 Administrator, DIVISION OF *
 PERSONNEL, *
 *
 Respondent. *
 *
 Case No. 81-130-PC *
 *

INTERIM
 DECISION
 AND
 ORDER

This matter is before the Commission for the determination of the issue prior to hearing. The appellant's proposed issue is:

"What is the proper civil service classification for Karen Werth?"

The respondent's proposed issue is:

"Whether or not the decision of the Administrator to reallocate appellant's position to Library Associate II was correct?"

In the opinion of the Commission, the issue proposed by the respondent is the more appropriate statement of issue. See Harris v. DP, 79-PC-CS-478 (6/27/80).

This is an appeal under s.230.44(1)(a), Stats., and therefore is an appeal of the decision of the administrator in this case to reallocate the position to a particular classification. The Commission does not have the authority to enter into an independent inquiry as to the proper classification of the position, as is intimated by appellant's proposed issue. The Commission is only authorized to hear appeals from decisions of the administrator. Notwithstanding that the Commission is acting as an administrative appeals body, it is not restricted to a review of the facts that were available to the administrator when he made his decision. The Commission conducts a de novo


hearing at which the parties can make a completely new evidentiary record, and the Commission then determines whether the reallocation was correct under statutory guidelines based on the evidence presented at the Hearing. See Ryczek v. Wettengel, Wis. Pers. Bd. No 73-26 (7/3/74), and Jallings v. Smith, Wis. Pers. Bd. No. 75-44(8/23/76), which cited 73 C.J.S. Public Administrative Bodies and Procedure s.159(b); State ex rel Spruck v. Civil Service Board, 32 N.W. 2d 574 (Minn. 1948); J.C. McCrory Co. v. Commr. of Corporations, 182 N.E. 481, 483 (Mass. 1932); Block v. Glander, 86 N.E. 2d 318, 321 (Ohio 1949). Newport News Shipbuilding Co. v. U.S. 374 F. 2d 516, 530 (U.S. Court of Claims 1967); for the proposition that the Commission is to hold a de novo hearing and make new findings and may reverse the original determination notwithstanding that there is some evidence to support the original finding.

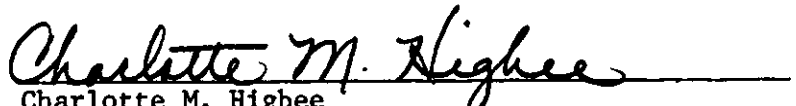
It is ordered that the issue for hearing shall be as follows:

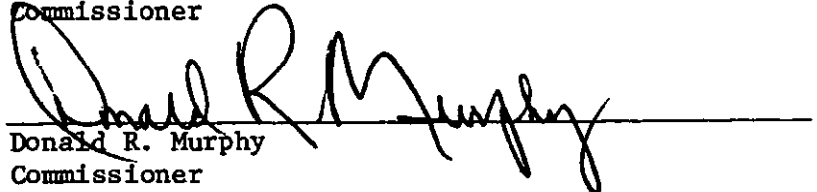
"Whether or not the decision of the administrator to reallocate appellant's position to Library Associate II was correct? If not, whether or not the appellant's position should be classified in the Librarian series?" (Librarian 1-3).

Dated Aug 5, 1981

STATE PERSONNEL COMMISSION


Gordon H. Brehm
Chairperson


Charlotte M. Higbee
Commissioner


Donald R. Murphy
Commissioner

mgd

Parties

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