

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 MARILYN KUICK,  
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 Appellant,  
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 v.  
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 Administrator,  
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 DIVISION OF PERSONNEL,  
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 Respondent.  
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 Case No. 81-68-PC  
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DECISION  
AND  
ORDER

This is an appeal pursuant to §230.44(1)(a), Wis. Stats., from the respondent's decision denying appellant's reclassification request. Appellant argues that she should have been reclassified from Job Service Supervisor 2 (JS Sup 2) (PR 1-11) to JS Sup 3 (PR 1-12).

FINDINGS OF FACT

1. Appellant was hired in November of 1979 as unit supervisor of the Computations Unit, Monetary Determination Section, Bureau of Benefits, Job Service Division of the Department of Industry, Labor, and Human Relations.

2. The Computations Unit is primarily responsible for three different functions or programs: Valid New Claims (VNC), Overpayments, and Federal Programs for payments to former federal employes (UCFE) and former military service personnel (UCX). The actual claim of an unemployed worker is filed in one of approximately 20 district offices throughout the state. The Computation Unit reviews the authorizations, findings or recommendations of the district offices to determine whether they meet

certain criteria. For example, if a District Office issues a finding that a claimant had earned wages during the same week in which unemployment benefits had been paid, then it is the responsibility of the Computation Unit to calculate the effect of that decision on past unemployment payments and to identify the existence of any overpayments. The overpayment information is then transferred to another bureau within the Job Service Division for bookkeeping and collection functions. Appellant's unit is also responsible for determining the acceptability of the district offices' initial authorization of entitlement to potential benefits (VNC). In 1980, approximately 350,000 workers in the state established Unemployment Compensation benefit entitlements. The unit also applies special verification procedures that are required for determining eligibility for the UCX and UCFE programs.

3. Appellant's role in these functions is as set out in her position description: to train and supervise the unit's staff, to resolve exceptional claim situations or problems lacking a prescribed procedure for resolution that have been passed along to her by subordinate staff, and to coordinate the unit's activities with the other Job Service offices. A copy of appellant's position description dated November, 1980 is attached hereto and incorporated by reference as if fully set forth as part of this finding. The Computation Unit's staff consists of nine year round and seasonal employes, including one Program Assistant Supervisor 2 position with supervision of six of the positions.

4. In November of 1980, Rose Lynch, Supervisor of the Adjudications Unit of the Monetary Determination Section, vacated her position. Ms. Lynch's position was roughly comparable in terms of overall complexity and responsibility to that of the appellant. Both positions were classified as JS Sup 2. Appellant gradually assumed many of the responsibilities of Ms. Lynch's position. She co-supervised the unit with the assistance of Mr. Utynek, Section Chief of the Monetary Determination Section (MDS). The appellant also provided the Adjudications Unit with technical expertise in its program areas. The primary reason the appellant assumed Ms. Lynch's responsibilities gradually was that at the time of Ms. Lynch's departure, the appellant was still learning some of the various phases of MDS operations.

5. Appellant assumed Ms. Lynch's duties on a temporary basis and expected Ms. Lynch's position to be permanently filled within a few months of the vacancy. No one was immediately hired because a pending reorganization of the Division would have eliminated the need for filling the position. As of the date of the hearing, Mrs. Lynch's position remained vacant and the reorganization had still not taken place due to delays in instituting a prerequisite computer capability.

6. Appellant never assumed Ms. Lynch's duties on a permanent basis.

7. Appellant's temporary assumption of the duties of the Supervisor, Adjudications Unit, did not constitute a "logical and gradual change" in the duties and responsibilities of appellant's

position as defined in § Pers 3.01(3)(a), Wisconsin Administrative Code.

8. The relevant portion of the specification for JS Sup 2 and JS Sup 3 provide:

JOB SERVICE SUPERVISOR 2

PR1-11

Definition

This is responsible professional supervisory job service work in the Department of Industry, Labor, and Human Relations.

Positions allocated to this level typically: 1) perform professional job service program functions and supervise a staff of clerical employees in the administrative office; 2) supervise a small unit of professional and paraprofessional staff engaged in placement activities, adjudication activities, or a comparable specialty area; 3) perform professional job service program functions and supervise a large clerical and/or paraprofessional staff engaged in UC claims processing as well as client intake and registration activities; or 4) function as a UC Hearing's Office Manager.

Work is performed under general supervision of the District Director or equivalent organizational positions.

Representative Positions

Field Offices

Supervisor Intake and Claims Processing Unit - Field Offices - supervise a large clerical staff engaged in UC claims processing as well as client intake and registration for the district.

Supervisor, Small WIN Job Development Unit - supervise a small staff (see chart) of professionals and paraprofessionals in job placement and follow-up activities for WIN participants; plan WIN job development function and coordinate work with other WIN units.

Supervisor, Small Placement Unit - supervise a small staff of professionals and paraprofessionals in job placement activities.

Office Supervisor, Hearing Office, Bureau of Legal Affairs - supervise hearing office program functions on a regional basis involving unemployment compensation appeals and supervise a clerical staff. Perform quality control review of decisions appealed, determine and issue subpoenas when required, grant or deny hearing postponement requests, and makes decisions of administrative law/policy with regard to the appeal rights of the parties and the observance of "due process."

JOB SERVICE SUPERVISOR 3

PR1-12

Definition

This is very responsible professional supervisory job service work.

Positions in the field offices allocated to this class typically: 1) carry responsibility for a job service program activity which is a major emphasis of the field office, such as Employment Assistance including the supervision of a small unit of professional and paraprofessional staff, or 2) supervise a medium unit of professional and paraprofessional staff engaged in placement activities.

Positions in the administrative office allocated to this class carry independent responsibility for planning, monitoring, evaluating and consulting in a statewide job service program including the supervision of support staff.

Work at this level is performed under general supervision.

Representative Positions

Field Offices

Supervisor, Small Adjudications Unit - supervise a small unit of disputed Unemployment Compensation Claims Adjudicators, serve as expert in all phases of the Unemployment Compensation law in the geographic area, develop and conduct public relations and public information programs in the area. Positions in this category report directly to a Job Service District Director.

Supervisor, Medium-sized WIN Job Development Unit  
- supervise a medium-sized staff of professional  
and paraprofessionals in job placement activities.

Supervise, Medium-sized WIN Job Development Unit -  
supervise a medium-sized unit of professionals and  
paraprofessional staff in job placement and follow-  
up' activities for WIN participants.

Administrative Office

No positions are currently allocated to this class  
in the administrative office.

9. The appellant's position is correctly described as  
performing "professional job service program functions" and  
supervising "a staff of clerical employes in the administrative  
office."

#### CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission  
pursuant to §230.44(1)(a), Wis. Stats.

2. The appellant has the burden of proving that the  
respondent's decision to deny the appellant's reclassification  
request was incorrect.

3. The appellant has failed to meet that burden of  
proof.

4. The respondent's decision to deny the reclassification  
of appellant's position from Job Service Supervisor 2 to Job  
Service Supervisor 3 was correct.

#### OPINION

The initial question raised by this appeal is whether the  
respondent's reclassification decision should reflect the changes  
in the appellant's duties that resulted when Ms. Lynch vacated  
her position. Testimony clearly indicated that the appellant

was never assigned the additional duties on a permanent basis. It is also clear that she only expected Ms. Lynch's position to remain vacant for a few months.

The term "reclassification" is defined in § Pers 3.01(3), which provides in part:

Reclassification means the assignment of a filled position to a different class by the administrator as provided in §230.09(2), Stats., based upon:

- (a) a logical and gradual change to the duties and responsibilities of a position;

The Commission concludes that the appellant's temporary assumption of Ms. Lynch's duties does not satisfy the requirements for reclassification.

Testimony established that the Division of Personnel construes the reclassification definition as allowing consideration of only those duties assigned on a permanent basis. (Also, note the provisions of §§Pers 3.01(4) and 3.015(3) Wisconsin Administrative Code) The Commission is satisfied that a permanent rather than temporary assignment of duties is implicit in the definition. This result appropriately precludes reclassifications when duties or responsibilities are only temporarily assigned, such as when another employe goes on vacation. In the present case, the Commission must ignore those temporary changes in the appellant's duties that resulted when Ms. Lynch vacated her position.

The second question raised by this appeal is whether, given these duties permanently assigned, the appellant's position should be reclassified.

Based upon the evidence offered at the hearing, the Commission concludes that the appellant has failed to show that the respondent's decision was incorrect and that she should be reclassified to JS Sup 3.

An important problem with the relevant class specifications is that they don't focus on readily identifiable positions within Job Service's central office. The specifications address the field office positions more completely than they address administrative office positions.

Respondent's only witness, Jean Whitcomb, testified that appellant was appropriately classified as a JS Sup 2 because her duties were to "perform professional job service program functions and supervise a staff of clerical employes in the administrative office" as provided in the class level definition. Ms. Whitcomb, a team leader within the respondent's staff, also relied on a comparison of appellant's duties with those of the UC Hearing Office Manager position. This position is identified as a representative position for the JS Sup 2 classification and is specifically referred to in sub 4) of the definition section.

The Commission is persuaded that the definition statement for JS Sup 2 adequately describes the appellant's position. Appellant offered no testimony indicating that her position could not be included within that definition. However, testimony did show that the appellant's position and the position of Office Supervisor, Hearing Office, Bureau of Legal Affairs, were roughly comparable in terms of the scope of their review of decisions made at field offices.



The class specifications for the JS Sup 3 level state that:

Positions in the administrative office allocated to this class carry independent responsibility for planning, monitoring, evaluating and consulting in a statewide job service program including the supervision of support staff.

The key words in the definition are "independent responsibility."

While the appellant offered testimony that she had input into various policy decisions affecting the Computation Unit, she failed to establish that she had the authority to determine the direction of her program. Specifically, it was shown that the head of what was then known as the Benefit Support Section was responsible for establishing policy by interpreting changes in relevant laws and regulations.

Based upon the above analysis, the Commission concludes that the appellant's position was not incorrectly classified at the JS Sup 2 level.

ORDER

The respondent's reclassification decision is affirmed, and the appeal is dismissed.

Dated: Jan 27, 1982 STATE PERSONNEL COMMISSION

Laurie R. McCallum  
LAURIE R. McCALLUM  
Commissioner

Donald R. Murphy  
DONALD R. MURPHY, Chairperson

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