

* * * * *

T. W. TUTTLE¹,
 CHARLES OINONEN,
 DALTON DELANEY,

Appellants,

v.

Secretary, DEPARTMENT OF
 AGRICULTURE, TRADE & CONSUMER
 PROTECTION, and Secretary,
 DEPARTMENT OF EMPLOYMENT
 RELATIONS,

Respondents.

Case Nos. 85-0153, 0154,
 and 0158-PC

* * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal from respondents' decision reallocating appellants' positions from Veterinary 3 Supervisor to Veterinary 2 Supervisor. At the prehearing conference held on September 24, 1985, before Laurie R. McCallum, Commissioner, the parties agreed to the following issue for hearing:

Whether the decision of respondents to reallocate appellants' positions from Veterinary 3 Supervisor (PR1-16) to Veterinary 2 Supervisor (PR1-15) was correct.²

Hearing in the matter was held on February 6, 1985, before Dennis P. McGilligan, Chairperson. The parties did not file written arguments.

¹Pursuant to respondent DER's motion at hearing, Mr. T. W. Tuttle was dismissed as a party for failure to prosecute.

²The parties stipulated on April 1, 1986 that the class specifications at issue are Veterinarian 2 and 3, not the Veterinary Supervisor series contained in the Veterinarian position standard, referred to in Finding of Fact 4.

FINDINGS OF FACT

1. At all times material herein, the appellants have been employed in the classified civil service by the Department of Agriculture, Trade and Consumer Protection (DATCP).

2. Effective July 14, 1985, appellants' positions were reallocated from Veterinary 3 Supervisor to Veterinary 2 Supervisor as a result of a review conducted by respondents of certain classifications pursuant to DATCP's reorganization and consolidation of its Food and Meat Divisions. Appellants filed timely appeals of these reallocations with the Commission.

3. At all times material herein appellants have been responsible for the supervision, administration and management of all meat inspection activities in a district. In this capacity appellants are responsible for establishing program objectives with subordinates, assisting in the training and coaching of employes and evaluating work performance. They also review meat plant facilities and operating procedures to determine compliance with laws and regulations. In addition, appellants are responsible for communicating division policies and regulatory changes to inspection staff and meat plant operators. Finally, appellants are responsible for making dispositions of animals and carcasses retained by inspectors because of disease or other abnormalities.

4. The Veterinarian position standard provides:

Veterinarian 2

SR15-07

Duties are performed under limited supervision, with a review of findings and assistance given in final determinations and reports. Positions allocated to this class function in one of the areas described below.

Laboratory positions perform routine veterinary diagnostic work on all species of livestock and poultry, develop and evaluate case histories, interpret laboratory tests and diagnose cases submitted to the state's animal health diagnostic laboratories. Work also includes making recommendations concerning disease prevention, control and eradication measures.

Meat inspector positions are responsible for directing activities of lay meat inspectors, making final dispositions on animals, carcasses and parts retained by meat inspectors and making sanitation inspections at slaughterhouses and meat processing establishments.

Field veterinarian positions are responsible for directing and coordinating work on specific animal diseases to develop effective disease prevention, control and eradication programs.

Examples of Work Performed

Plans, assigns, trains and coordinates the work of cooperating veterinarians and private practitioners in their respective districts.

Inspects and tests cattle, hogs, sheep, poultry and other livestock for the presence of communicable and contagious diseases.

Conducts field diagnostic tests and makes clinical evaluations for animal diseases, such as Tuberculosis and Brucellosis.

Conducts routine laboratory diagnostic examinations of livestock and poultry.

Instructs herd owners in proper precautions to be taken in preventing, controlling and eradicating disease.

Recommends proper control or disposal measures for diseased livestock, including establishment of quarantines.

Implements and coordinates meat inspection at the establishment level or in designated districts.

Assists in the training of meat inspectors in pathology, sanitation, food handling methods, zoonoses and public health problems through on-the-job instruction.

Performs related work as required.

Veterinarian 3

SR15-08

This is full professional veterinary work. Positions allocated to this level are expected to function as technical specialists in their field and perform at a high level of competency within their specialty. Positions function in one of two areas--field epidemiologists or technical specialists. The field epidemiologist positions work with specific animal diseases to develop effective disease control and eradication programs. Technical specialists are responsible for functioning in a specific program area, such as veterinary toxicology, where they are responsible for performing highly technical and complex livestock and/or poultry diagnostic work in the area of specialization.

Examples of Work Performed

Acts as technical consultant on complex animal disease and food hygiene problems and recommends appropriate courses of action.

Performs informational and educational work on statewide disease control and food hygiene programs.

As field epidemiologist, conducts investigations in critical areas where evidence of disease conditions persist to determine the potential significance of various factors which might cause disease problems.

As technical specialist, performs technical and complex diagnostic procedures within an area of specialization, such as veterinary pathology, toxicology or virology, at an animal health laboratory.

Advise and consult with veterinary practitioners, industry groups, technical specialists and supervisor lower level technicians.

5. Effective April 1, 1985, DATCP combined the Meat Inspection and Food Divisions into a single "Food Division." This reorganization became fully operative on July 1, 1985.

6. Prior to the aforesaid reorganization appellants each had a technical specialty which they performed on a statewide basis. Appellant Delaney advised industry and department personnel with respect to achieving performance standards in matters relating to meat inspection (sanitation). According to his position description dated September 26, 1978 Delaney spent at least 15% of his work time on this activity. Appellant Oinonen had the same type of responsibilities noted for Delaney above relating to meat plant construction, remodeling and blue print reading. Oinonen spent between 20% and 49% of his work time on these activities.

7. As a result of the reorganization, and on or about June/July of 1985, the appellants' technical specialties described in Finding of Fact 6 above were removed from their assigned duties. Consequently, the sole focus of appellants' positions was meat inspection as described in Finding of Fact

3 including directing the activities of lay meat inspectors; performing inspections on animals, deciding which should be retained and condemned and which should be passed on as food; making sanitation inspections at slaughterhouses and meat processing establishments; and performing certain related tasks.

8. The appellants' positions are best described by the Veterinarian position standard at the Veterinarian 2 level, and are most appropriately classified as a Veterinarian 2.

CONCLUSIONS OF LAW

1. These appeals are properly before the Commission pursuant to §230.44(1)(b), Stats.

2. The appellants have the burden of proof.

3. The appellants have not sustained their burden of proof.

4. The respondents' decision reallocating appellants' positions to Veterinary 2 Supervisor instead of to Veterinary 3 Supervisor was not incorrect.

OPINION

The question before the Commission is whether the appellants' positions should be classified as a Veterinary 2 Supervisor or a Veterinary 3 Supervisor. In order for appellants to prevail, they must satisfy their burden of proving that their positions meet the Veterinarian 3 definition and are more properly classified in that classification.

Respondent presented un rebutted testimony that the main difference between Veterinarian 2 and 3 with respect to meat inspection positions was statewide technical responsibilities. The record is undisputed that as a result of DATCP's reorganization of its Meat Inspection and Food Divisions into a single "Food Division" appellants' technical specialties were removed

from their formally assigned duties. Appellant Delaney no longer reviewed the level of sanitation in establishments on a statewide basis while appellant Oinonen no longer reviewed meat plant construction, remodeling and blue prints. The Veterinarian 2 class specifications provide that meat inspector positions in this class "are responsible for directing activities of lay meat inspectors, making final dispositions on animals, carcasses and parts retained by meat inspectors and making sanitation inspections at slaughterhouses and meat processing establishments." Respondent presented evidence, unrefuted by appellants, that this language accurately described appellants' duties and responsibilities.

Appellants primarily argue that respondents' action reallocating their positions downward was contrary to their career development program and the professional status of their positions within DATCP. Appellants maintain that the rights of other state employes will be jeopardized if the Commission permits the unjust reallocation of their positions down one level. Appellants appear to disagree with the Department's reorganization and the removal of certain of their duties which led to their reallocation. Appellants feel their talents and skills aren't being properly utilized by DATCP. Since the Commission can only hear appeals from specific classification decisions, and in so doing must adhere to the existing class specifications or position standards, it cannot address these kind of contentions. As previously noted, appellants' duties satisfy the Veterinarian 2 class specifications. The propriety of DATCP's reorganization and the resulting utilization of personnel is not an issue recognized by the aforesaid review when making classification decisions nor is it an issue before the Commission.

In making a decision on appellants' proper classification, the Commission is limited to the record evidence including the position standards developed by respondent DER and appellants' job duties as reflected in their position descriptions, testimony and exhibits. Based on same, and all of the foregoing, the Commission finds that the answer to the issue as stipulated to by the parties is YES, the respondents' decision to reallocate the appellants' positions to Veterinary 2 Supervisor (PR1-15) was correct and should be affirmed.

ORDER

Mr. Tuttle's appeal is dismissed for lack of prosecution. As to Mr. Oinonen and Mr. Delaney, the respondents' reallocation decision is affirmed and the appellants' appeals are dismissed.

Dated: MAY 14, 1986

STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner

DPM:vic
VIC02/1

Parties

Dalton Delaney
417 Wisconsin St.
Mineral Point, WI 53575

Charles Oinonen
Route 2
Birchwood, WI 54817

Laverne Ausman
Secretary, DATCP
P. O. Box 8911
Madison, WI 53708

Howard Fuller
Secretary, DER
P. O. Box 7855
Madison, WI 53707

T. W. Tuttle
1112 Riverside Drive
Ft. Atkinson, WI 53538