

STATE OF WISCONSIN

PERSONNEL COMMISSION

 *
 GARDIPEE et al., *
 (John Masticola, Doug McFee, *
 Stephen Marshall, Martha Benewicz,*
 Marilyn Gardipee, Janice Letven) *
 *
 Appellants, *
 *
 v. *
 *
 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondent. *
 *
 Case No. 88-0004-PC *
 *

INTERIM
 DECISION
 AND
 ORDER

This matter is before the Commission to resolve a dispute as to the proper statement of issue for hearing. The parties have filed briefs.

The parties propounded the following issues:

Respondent: "Whether the appellants' positions should have been classified as Area Services Specialist 6 (PR 12-05)? If so, what is the appropriate remedy?"

Appellants: "Whether appellants' positions are more properly classified as Area Services Specialist 6 or 5 (ASS 6 or 5) or Administrative Assistant 5 (AA 5). If so, what is the appropriate remedy."

The parties disagree over whether the Administrative Assistant 5 (AA 5) classification should be included in the statement of issue. Respondent asserts that it did not consider this classification either implicitly or explicitly when it made its classification decision. Appellants assert and offer to prove, inter alia, that:

"During a conference call conducted by the respondent and/or its agents with all of the appellants the position [sic] of Administrative Assistant 5 (AA 5) was raised and discussed. Those managers present for DHSS ... rejected the classification.

Further, during the spring of 1986, Appellant ... Benewicz discussed the same problem, i.e., AA 5, with her boss. She was told not to pursue the AA 5 position because, supposedly, she would lose." Letter/brief dated June 27, 1988.

For the purpose of deciding this dispute, the Commission will assume that the transaction in question was effectuated solely by DER, the only named respondent -- i.e., it was a non-delegated transaction. As such, DHSS managers would not have the authority to "reject" any classification. Any negative comments they might make about a particular classification would not be binding on DER, and appellants have not made any factual allegations that would constitute circumstances under which the Commission could conclude that DER had rejected either explicitly or implicitly, the AA 5 classification, or that for other reasons the Commission should consider the AA 5 classification as part of the issue.

While this matter can not be heard on appellants' statement of issue under the circumstances, in the interest of avoiding undue further delay, the Commission will schedule a hearing date in approximately 90 days and direct respondent to issue a decision on the appropriateness of the AA 5 classification at least 30 days before the date scheduled for hearing.

ORDER

The issue for hearing will be as follows:


"Whether appellants' positions should have been classified as Area Services Specialist 5 or 6 or Administrative Assistant 5? What is the appropriate remedy, if any?"

This matter is to be scheduled for hearing in approximately 90 days. Respondent is to issue a decision on the appropriateness of the AA 5 classification for these positions at least 30 days before the date scheduled for hearing.

Dated: August 10, 1988 STATE PERSONNEL COMMISSION

AJT:rcr
JGF002/2


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner