

ROBERT BEHLING,

Appellant,

v.

Secretary, DEPARTMENT OF
REVENUE and
Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS

Respondents.

Case No. 88-0060-PC

DECISION
AND
ORDER

This matter is before the Commission as an appeal of a reclassification decision. During a prehearing conference held on July 21, 1988, the parties agreed to the following issue for hearing:

Whether respondent's decision to deny the request for reclassification of appellant's position from Property Assessment Supervisor 1 to Property Assessment Supervisor 2 was correct.

After the conclusion of a hearing on July 17, 1989, the parties filed post-hearing briefs.

FINDINGS OF FACT

1. Appellant is a first line field supervisor in the Milwaukee District office of the respondent DOR's Assessment of Manufacturing Property Section. There are five district offices in this section: Fond du Lac, Madison, Milwaukee, Eau Claire and Green Bay.

2. In each of the Fond du Lac, Madison, Eau Claire and Green Bay offices, the positions which are in charge of manufacturing assessment are all classified at the Property Assessment Supervisor (PAS) 2 level. All four of the positions serve as first line supervisors for the manufacturing assessment staff in the district offices. All four report directly to the section chief of the Assessment of Manufacturing Property Section, Charles Turner.

3. The supervisor for manufacturing assessment in the Milwaukee District office is James Murphy, whose position is classified at the Property Assessment Supervisor 3 level. As a consequence of its size, the Milwaukee District office is divided into three geographic subunits: the "Milwaukee Unit" is supervised by Mr. Murphy, the "South Unit" is supervised by the appellant and the "West Unit" is supervised by Steven Larrabee.

4. As supervisor of the Milwaukee District office, Mr. Murphy is responsible, among other things, for planning and directing the overall manufacturing property tax program in the district and establishing the district's annual work plan. Mr. Murphy reports directly to section chief Charles Turner.

5. Appellant's position description includes the following position summary which accurately describes the duties and responsibilities of appellant's position:

The major goals of this position are to plan, organize, coordinate and direct the assessment of Manufacturing Property for a district subunit. Supervise the work of a professional assessment staff and perform supervisory technical work. Work is performed in accordance with established performance standards and is reviewed through program reports and progress conferences with the district supervisor [Mr. Murphy]. Reports to Section Chief for appeal activity.

Twenty-five percent of appellant's time is spent on Board of Assessor (i.e., appeal) activities for which the appellant reports directly to the section chief, Charles Turner.

6. The position description identifies Mr. Larrabee, a PAS 1, as performing similar duties as the appellant.

7. Both the appellant and Mr. Larrabee report to Mr. Murphy with respect to all matters except those activities relating to the Board of Assessors.

8. The specifications for the PAS 1 classification include the following language:

Definition

This is responsible, professional, supervisory work in the area of property appraisal/assessment in the Bureau of Property Tax. Employees in this class function as a first line field supervisor for a major property assessment area, such as equalization or manufacturing. Work is performed independently in accordance

with program and/or statutory guidelines, and is reviewed through reports and conferences with the next highest level of supervision.

Examples of Work Performed

Perform any or all of the duties of a Property Assessment Specialist and in addition:

Effectively recommends the hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, evaluation, discipline, and adjustment of grievances of subordinate employees.

Directs or performs the most complex and difficult property appraisal/assessment assignments.

Acts as a supervisor in such areas as manufacturing property assessment, equalization, or a comparable major property assessment function.

Conducts or directs special studies relating to property tax problems for the district supervisor or the bureau director.

May function as an expert appraiser on the most complex and difficult appraisal/assessment assignments.

9. The specifications for the PAS 2 classification include the following language:

Definition

This is very responsible professional, supervisory work in the area of property appraisal/assessment in the Bureau of Property Tax. Employees in this class function as either: 1) supervisor of a property assessment program unit, such as equalization or manufacturing, in a district property tax office; or 2) assistant section chief for assessment practices manufacturing, equalization, or a comparable program area in the Bureau of Property Tax central office. Work is performed independently in accordance with applicable state laws, regulations, and policies and is subject to general administrative review of program effectiveness.

Examples of Work Performed

Effectively recommends the hiring, transfer, suspension, layoff, recall, promotion, discharge, assignment, evaluation, discipline, and adjustment of grievances of subordinate employees.

DISTRICT OFFICE

Plans and directs the overall manufacturing or equalization property tax program in the district office.

Establishes the annual work plan of which jurisdictions are to be reviewed and which work methods are to be used.

Plans and directs the annual establishment of equalized values for each taxation district within an assigned administrative area.

Supervises the determination of annual assessments for a manufacturing district, fair market values, and the maintenance of data processing information support systems.

Directs and reviews the field audit of all manufacturing property in a district over a statutorily determined time period.

Works directly with local government officials and assessors to improve assessment practices.

Directs the preparation of defensive material when appeal action has been initiated against values arrived at by district staff.

Conducts staff meetings and directs new employees' training.

Ensures that departmental policies and procedures are applied in the district office.

Prepares the district office annual budget.

Directs special investigations and studies.

Attends the most important meetings with local officials and taxpayers.

10. The specifications for the PAS 3 classification include the following language:

Definition

This is highly responsible, administrative, and supervisory work directing a major program section within the Bureau of Property Tax, or supervising a major program unit, such as equalization or manufacturing in the Milwaukee District Property Tax Office.

* * *

Examples of Work Performed

DISTRICT OFFICE

As district unit supervisor of the equalization or manufacturing program, is responsible for the implementation and maintenance of the program.

Plans and directs the overall manufacturing or equalization property tax program in the Milwaukee District Office.

11. The appellant supervises a subunit within the Milwaukee District office but Mr. Murphy is responsible for the overall manufacturing property tax program in the district, including its subunits.

12. Appellant's position is more appropriately classified at the PAS 1 level than the PAS 2 level.

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.

2. Appellant has the burden of proof to establish by a preponderance of the evidence that his position is more appropriately classified at the PAS 2 level than at the PAS 1 level and, accordingly, that respondents' decision to deny the request for reclassification of his position to PAS 2 was incorrect and must be rejected.

3. Appellant having failed to sustain his burden of proof, respondents' decision to deny the request for reclassification of his position to PAS 2 must be sustained and this appeal must be dismissed.

DISCUSSION

The dispute in this reclassification appeal boils down to differing views as to the intent of the language found in the PAS 1 and 2 specifications. The key question is whether the PAS 2 language is broad enough to include a position which, although supervisory, has less than district-wide responsibility for assessments of manufacturing property. The Commission concludes that the PAS 2 language cannot be read to include positions which only supervise a subunit within a district.

The particular language is in the PAS 2 definition: "Employes in this class function as either: 1) supervisor of a property assessment program unit, such as equalization or manufacturing, in a district property tax office" (emphasis added) The appellant contends that his position fits this definition because he supervises the "South Unit" within the Milwaukee District office. However, the language in the specification indicates that the PAS 2 is to have responsibility for the entire manufacturing (or equalization) unit with the district office rather than just a portion of the manufacturing unit. This conclusion is supported by the language in the first "example of work performed" listed in the PAS 1 specification: "Plans and directs the overall manufacturing

or equalization property tax program in the district office." Mr. Murphy, rather than the appellant (or Mr. Larrabee) has responsibility for the "overall" manufacturing property tax program in the Milwaukee district office. The appellant's responsibilities extend only to one of three subunits within the Milwaukee district. The respondent has consistently applied this interpretation of the PAS 1 through 3 specifications to the equalization and manufacturing property tax programs in the district offices throughout the state.

It is true that the level of activity in the appellant's subunit is comparable to that of at least one of the districts (Eau Claire) in terms of the value of manufacturing property involved. This information suggests that DOR may at some time decide to revise the organizational structure of the Assessment of Manufacturing Property Section so that there are seven rather than five district offices. However, at all times relevant to this appeal, there have been five district offices with three geographic subunits within the Milwaukee District even though in some documents, including the official organizational chart for the Milwaukee District, reference is made to the South Unit, the Milwaukee Unit and the West Unit instead of to the South Subunit, the Milwaukee Subunit and the West Subunit. The supervisor for each of the five district offices report directly to Mr. Turner, the section chief for the Assessment of Manufacturing Property Section. The appellant's position, along with Mr. Larrabee's, have a lower level of accountability as reflected in the fact that they are the only assessment supervisors in the districts who report to Mr. Murphy.

That portion (25%) of the appellant's time devoted to Board of Assessor duties is PAS 2 level work because it does not fit well within the general language of the PAS 1 specifications, because appellant's supervisor in this area is the section chief rather than Mr. Murphy and because there is a specific work example at the 2 level which reads: "Directs the preparation of defensive material when appeal action has been initiated against values arrived at by district staff." However, the remainder of the responsibilities assigned to the appellant's position fit within the language of the PAS 1 specification. Because the majority of the appellant's responsibilities are at the PAS 1 level, his position is properly classified and is not entitled to reclassification.

The organization structure in the instant appeal is similar to that reviewed by the Commission in Danielski et al. v. DER, 85-0196-PC, 9/17/86. In Danielski, the appellants each headed geographic subunits within the Milwaukee District office of the Field Compliance Bureau of the Division of Income, Sales, Inheritance and Excise Tax of the Department of Revenue. The Milwaukee District was one of four districts in the state along with Appleton, Eau Claire and Madison. The Milwaukee district supervisor was classified at the Tax Compliance Supervisor 3 level. The supervisors of the other three districts were classified at the TCS 2 level. All four district supervisors were designated as the chief compliance officers for their districts. The Commission held that the appellant's positions were properly classified at the TCS 1 level because, inter alia, they reported to a district supervisor and they were not accountable as the compliance officers for a district. While the TCS and PAS specifications are not identical, they clearly reflect an organizational pattern which was upheld by the Commission in Danielski. The decision in Danielski further supports the interpretation of the PAS 2 specification reached by the Commission in the instant appeal.

Based on the above analysis, the appellant has failed to sustain his burden of showing that the respondents' decision denying his request to reclassify his position to the PAS 2 level was incorrect.


ORDER

The respondent's decision denying the appellant's request to reclassify his position is sustained and the appeal is dismissed.

Dated: December 14, 1989 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

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DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

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