

Unique file # 92-0843-PC-A

Case Name: AKey v. DNR + DER

Case Number: 92-0843-PC

Date: 06 / 21 / 1994
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STATE OF WISCONSIN

PERSONNEL COMMISSION

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PATRICIA AKEY,

Appellant,

v.

Secretary, DEPARTMENT OF
NATURAL RESOURCES, and
Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondents.

Case No. 92-0843-PC

* * * * *

DECISION
AND
ORDER

This matter is before the Commission on appeal of a decision by the Department of Natural Resources to deny reclassification of the position held by Patricia Akey from Program Assistant 3 to Program Assistant 4. The following discussion and conclusions are based on evidence presented at a hearing on this matter and after the filing of post-hearing briefs.

The appellant, Patricia Akey, who is employed by the Department of Natural Resources (DNR) at its Griffith State Nursery, was reclassified to a Program Assistant (PA) 3, effective January 15, 1989. The position summary, in the position description of her newly acquired PA 3 classification read: Provide administrative, operational, and nursery management services for the Griffith Nursery and the statewide tree distribution program. Administer all money transactions, totaling one and one-half million dollars from statewide tree sales. Participate in developing procedures to meet new and expanding needs. At that time, appellant's first-line supervisor was Kenneth E. Wojahn.

The request for reclassification which precipitated this appeal included a position description signed by appellant and her current supervisor James Storandt in September 1991, but as a product of the job audit appellant and her supervisor submitted an updated position description signed and dated September 10, 1992. This new position description was used in respondent's reclassification decision. This position description in part provides:

- A. Administer the statewide tree and shrub order processing program under the direction of the Nursery Superintendent, (30%);

- B. Public Awareness, which includes developing public awareness of the "Tricia Tree" program, (16%);
- C. Provision of administrative and operational services for the Griffith Nursery under the direction of the Nursery Superintendent, (18%);
- D. Provision of administrative and operational services for the statewide computer data entry program under the direction of the Nursery Superintendent, (8%);
- E. Provision for orderly scheduling and consigning of tree orders during the spring shipping season, (10%); and
- F. Provision of other administrative and public relation services, (18%).

The State of Wisconsin Program Assistant Position Standard, Class
Description, in pertinent part, provide:

PROGRAM ASSISTANT 3

(PR2-10)

This is paraprofessional work of moderate difficulty providing a wide variety of program support assistance to supervisory, professional or administrative staff. Positions are delegated authority to exercise judgment and decision making along program lines that are governed by a variety of complex rules and regulations. Independence of action and impact across program lines is significant at this level. Positions at this level devote more time to administration and coordination of program activities than to the actual performance of clerical tasks. Work is performed under general supervision.

PROGRAM ASSISTANT 4

(PR2-11)

This is paraprofessional staff support work of considerable difficulty as an assistant to the head of a major program function or organization activity. Positions allocated to this class are coordinative and administrative in nature. Positions typically exercise a significant degree of independence and latitude for decision making and may also function as leadworkers. Positions at this level are differentiated from lower-level Program Assistants on the basis of the size and scope of the program involved, the independence of action, degree of involvement and impact of decisions and judgment required by the position. Work is performed under direction.

PROGRAM ASSISTANT 3 - WORK EXAMPLES

Prepares reports, research project data, budget information, mailing lists, record keeping systems policies and procedures, training programs, schedules and generally oversees operations.

Plans, assigns and guides the activities of a unit engaged in the clerical support of the program assigned.

Develops and/or revises selected policies and procedures affecting the administration of the program.

Answers questions regarding the program or division via telephone, correspondence or face-to-face contact.

May serve as an Assistant in charge of secretarial and administrative tasks in an operation handling cash procedures, equipment orders, inventory, program preparation, pricing, etc.

Composes correspondence, maintains files of program related data, sets up schedules and performs any related administrative support function necessary to the operation of the program.

May be in charge of public relations, preparing and sending out pamphlets, brochures, letters and various program publications.

PROGRAM ASSISTANT 4 - WORK EXAMPLES

Plans, assigns and guides the activities of a unit engaged in current projects or programs.

Researches and produces, as recommended by federal regulations and through the direction of an immediate supervisor, necessary data and information to prepare grant applications based on federal, state and local funding regulations.

Interprets rules, regulations, policies and procedures for faculty, other employers and the public.

Prepares various informational, factual and statistical reports.

Assists in the development and revision of policies, laws, rules, and procedures affecting the entire program or operation.

Coordinates units within the department, between departments, or with the general public, in an informative capacity for a variety of complex matters.

Conducts special projects; analyzes, assembles or obtains information.

Prepares equipment and material specifications, receives bids and authorizes the purchase of an operating department's equipment, material and supplies.

Analyzes, interprets and prepares various reports.

Administers and scores admission and placement tests; administers nationally scheduled examinations; confers with applicants regarding test interpretations.

While appellant and her supervisor testified to the accuracy of the September 10, 1992, position description, they testified that in addition appellant functions as a lead worker for a seasonal employe, orientates new foresters, and is responsible for the annual distribution report.

Classification Specialist, Susann Steinmetz, who audited appellant's position, testified the most significant change in appellant's position since 1989 was the new public awareness responsibility -- "tricia tree" program -- which constitutes 16 percent of appellant's duties. Respondent stipulated those duties were at the PA 4 level.

Respondent also presented two positions for comparison:

- 1) Edward J. Rau, Program Assistant 3, DNR, Bureau of Forestry, Hayward State Nursery.

Position Summary

This position is a paraprofessional position that is responsible for providing administrative services to a major state production facility. Duties of this position require considerable knowledge of state procedures involving purchasing, payrolls and budgets. Considerable public relations activities are necessary to inform the public on the state's reforestation program and mission of the state forest nursery system.

- A. (20%) Provide clerical and administrative services for general nursery operations;
 - B. (20%) Coordinate administrative portion of tree distribution program;
 - C. (15%) Provide public relations and office management services;
 - D. (15%) Provide clerical and administrative services for statewide nursery program;
 - E. (10%) Purchase and inventory nursery materials and supplies;
 - F. (10%) Maintain nursery buildings, grounds and equipment;
 - G. (5%) Provide clerical and technical services in procuring and storing seed for state nurseries use; and
 - H. (5%) Provide clerical and technical services in non-nursery programs.
- 2) Deborah S. Pingel, DNR, 5301 Rib Mountain Drive, Wausau, WI, Program Assistant 4, (District Leaking Underground Storage Tank (LUST) Program Assistant.

Position Summary

This position is a paraprofessional position which assists all technical LUST staff in the district and area offices. This person must understand the structure of the LUST program and its standard procedures and policies. The program assistant must have a basic understanding of state statutes, RCRA subtitle I, state administrative codes, and guidance documents covering the LUST and spills program. The program assistant must also have a fundamental understanding of the programs of other state and federal agencies which impact the regulated community in the LUST program in Wisconsin. Strong communication skills are required, as the program assistant is expected to be a primary public contact for the LUST program. This position is responsible

for technical review of consultants reports to complete re-ranking and updating of site status. This position coordinates the district LUST training schedule and recommends training needed to the ERRP supervisor. The LUST program assistant will assist the unit supervisor in overall program management, and recommend and implement necessary changes in program management. The program assistant receives reports on releases from responsible parties, consultants, and public officials and emergency responders; and directs necessary secondary action. This position coordinates the district LUST data tracking programs and recommends changes to BIM.

In addition, the program assistant must be familiar with the follow [sic] PC based and mini based software: Windows, Lotus 1-2-3, Wordperfect, dBase III Plus, LAN System, Paradox, MS-DOS, TSO, IMS and VAX.

- A. (20%) Maintain the district LUST case tracking and ranking system;
- B. (10%) Provide LUST program information and education;
- C. (25%) Review site assessment reports which are not assigned to district technical staff;
- D. (20%) Review of site assessment and remedial investigation reports for updating status of cases;
- E. (10%) Work with district LUST technical staff, LUST Unit Leader and District Solid Waste Coordinator in overall program management;
- F. (5%) Establish and maintain district LUST cases files; and
- G. (10%) Recommend policies, procedures and guidelines for development of Solid Waste safety program.


The duties and responsibilities of appellant's position do not satisfy the requirements for classification to the PA 4 level. Clearly this position performs duties more comparable to those described as PA 3 work examples. As is common to PA 3 positions, this position provides clerical and administrative supportive tasks related to the operation of a primary program. While this position appears stronger than the Rau position, it lacks the kind and level of activities exemplified in the PA 4 work examples and the Pingel position.

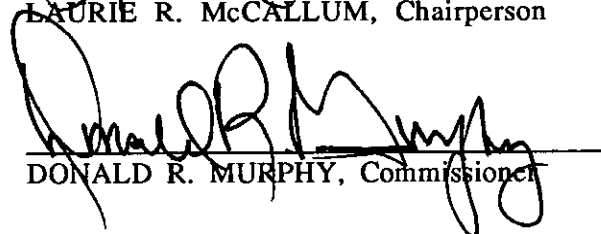
Therefore, the Commission concludes the duties and responsibilities of appellant's position at the time at issue more appropriately are classified at the PA 3 level.

ORDER

The action of respondents denying reclassification of appellant's position to Program Assistant 4 is affirmed and this appeal is dismissed.

Dated: June 21, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner

DRM:rcr

Parties:

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**NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION**

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in

the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)
2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)