

State of New Hampshire



PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
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Appeal of Daphne Dubois

Docket #97-O-9

New Hampshire Hospital

June 18, 1997

On May 27, 1997, the Personnel Appeals Board received Ms. Dubois' May 20, 1997, letter requesting a hearing to appeal the denial of retroactive compensation as a result of an April, 1997, position reclassification. Ms. Dubois argued that her job duties changed in 1995 when her department was reorganized. She indicated that her supervisor wanted to pursue a promotion under the Department of Health and Human Services' newly created authority to reclassify positions independent of approval by the Division of Personnel. However, she said, the department chose not to promote her, but to have her complete a request for reclassification. The position was reviewed, resulting in a decision by the Division of Personnel to reclassify her position, effective April 11, 1997, from Account Clerk III, salary grade 8, to Executive Secretary, salary grade 10. According to Ms. Dubois, the decision to reclassify her position was transmitted by letter dated April 3, 1997. Ms. Dubois asserted that the process took approximately 18 months, and that because the Director of Personnel "did not act in sufficient time," she was entitled to appeal the effective date of reclassification.

RSA 21-I:57 provides that:

The employee or the department head, or both, affected by the allocation of a position in a classification plan shall have an opportunity to request a review of that allocation in accordance with rules adopted by the director under RSA 541-A, provided such request is made within 15 days of the allocation. If a review is

requested by an employee, the director shall contact the employee's department head to determine how the employee's responsibilities and duties relate to the responsibilities and duties of similar positions throughout the state. The employee or department head, or both, shall have the right to appeal the director's decision to the personnel appeals board in accordance with rules adopted by the board under RSA 541-A. If the board determines that an individual is not properly classified in accordance with the classification plan or the director's rules, it shall issue an order requiring the director to make a correction.

In order to be timely, appeals must be filed within fifteen calendar days of the action giving rise to the dispute. Whereas Ms. Dubois indicated that the Director's decision reclassifying her position was transmitted by letter dated April 3, 1997, an appeal to the Board must have been received on or before April 18, 1997, in order to be timely. Even if the Board were to treat April 11, 1997, the effective date of increase, as the date of the action giving rise to the appeal, an appeal to the Board must have been received by April 26, 1997, in order to be timely. Whereas the instant appeal was not received by the Board until May 27, 1997, the appeal is not timely.

Had Ms. Dubois' appeal been timely filed, the action giving rise to her appeal is a matter outside the Board's subject matter jurisdiction. RSA 21-I:54, III, provides in pertinent part:

No increases in salary shall be allowed for any request until a final decision is made by the director, or if the director's decision is appealed, by the personnel appeals board. Increases in salary due to reclassification or reallocation shall become effective at the beginning of the next pay period following the final decision of the director or the board.

At its meeting of June 18, 1997, the Board voted to dismiss the appeal unless, within ten calendar days from the date of this order, the appellant can show cause why her appeal should not be dismissed as untimely, and as a matter outside the Board's subject matter jurisdiction.

FOR THE PERSONNEL APPEALS BOARD


Mary Ann Steele, Executive Secretary

cc: Virginia A. Lamberton, Director of Personnel, 25 Capitol St., Concord, NH 03301

Dr. Paul Gorman, New Hampshire Hospital, 105 Pleasant St., Concord, NH

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Daphne Dubois, New Hampshire Hospital, 105 Pleasant St., Concord, NH 03301