State of New Hampshire

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PERSONNEL APPEALS BOARD
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MOTION FOR RECONSIDERATION
Appeal of Norman Blais, Alan Smith and David O'Neal

June 22, 1988

By letter dated April 29, 1988, SEA Field Representative Stephen McCormack filed with the Personnel Appeals Board a Motion for Reconsideration in the classification appeals of Norman Blais, Alan Smith and David O'Neal. The appellants, employees of the Design, Development and Maintenance Section of the Department of Resources and Economic Development, had appealed the Division of Personnel's decision denying requests to upgrade their positions of Forestry Maintenance Mechanic from salary grade 13 to salary grade 15. In its decision of April 14, 1988, the Board found the appellants' positions properly allocated at salary grade 13.

The arguments presented by the appellants in their Motion did not establish that their work qualified for allocation at the fifth degree in either the attribute of Physical Effort or Working Conditions.

The fifth degree for the attribute of Working Conditions describes work involving "unusual and the most disagreeable extremes which are continuous." (Emphasis added.) The appellants have not demonstrated that their work entails 50% or more of their time exposed to such elements. The appellants' argument that 50% of their work is performed outdoors does not support the contention that all of such work **is** either unusual or disagreeable.

The appellants, in requesting reconsideration of the points allocated to the attribute of Physical Effort again put forward the argument that approximately one half of their work is performed outside of the workshop. They argued that

they are involved in frequent lifting of materials over 60 pounds and continuous lifting of material up to 60 pounds. To support their argument that this attribute should be increased to the Fifth Degree, the appellants would then have to establish that during the time they are working out of doors, they are lifting materials up to 60 pounds 100% of the time. The information provided during the hearing could not support this conclusion.

The Board, in consideration of the foregoing, voted unanimously to deny the Motion for Reconsideration and to affirm its decision of April 14, 1988, finding the appellants' positions properly allocated at salary grade 13.

FOR THE PERSONNEL APPEALS BOARD

Mary Ann Steele

MARY ANN STEELE
Executive Secretary

cc: Stephen J. McCormack
SEA Field Representative

George Jones, Commissioner
Dept. of Resources and Economic Development

Virginia A. Vogel
Director of Personnel

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APPEAL OF NORMAN BLAIS, ALAN **SMITH** & **DAVID** O'NEAL

April 14, 1988

On Tuesday, March 29, 1988, the Personnel Appeals Board, Commissioners Cushman and Platt sitting, heard the appeal of Norman Blais, Alan Smith and David O'Neal, Forestry Maintenance Mechanics employed by the Design, Development and Maintenance Section of the Department of Resources and Economic Development. The appellant, who were represented by SEA Field Representative Stephen J. McCormack, were appealing the Division of Personnel's decision denying a request to upgrade their positions from Salary Grade 13 to Salary Grade 15. Edward J. McCann represented the Division of Personnel.

The appellants submitted written arguments in support of their appeal. The Division of Personnel submitted Requests for Findings of Fact and Rulings of Law.

The appellants requested increases in two of the 9 job attributes. With regard to those requests, the Board found the following:

Physical Effort

The appellants argued that this attribute should be increased from the fourth to the fifth degree. The requested degree is defined in the Evaluation Manual as work requiring, "...the continuous [50% or more of the time] lifing of material weighing up to 60 lbs., or frequent [10% to 50% of the time] lifting of heavy material weighing over 60 lbs. Also work requiring frequent strain [10% to 50% of the time] due to strenuous work positions." The appellants repeatedly referred to their work on fire towers and carrying materials and tools as part of the rationale for increasing this attribute. However, during testimony, the appellants indicated that approximately one-half of the year, their work is performed in the workshop at Bear Brook. The Board was not persuaded that the work described by the appellants met the criteria for increase in the attribute of Physical Effort, and thus voted to deny the increase.

Working Conditions

The appellants, whose positions are currently rated at the 4th degree, have requested an increase to the 5th degree, or, "Work involving

unusual and the most disagreeable extremes which are continuous. Exposure to injuries resulting in partial disability such as loss of an arm, a leg, partial loss of sight, etc., or health hazards which would be incapacitating and necessitate transfer to another occupation." The appellants argued that, "The majority of the work performed by Forestry Maintenance Mechanics is performed outdoors, and as such, the incumbents are exposed to a variety of disagreeable/adverse elements and extremes." The Board found, however, that the described elements are not continuous and would not qualify the appellants for increase to the 5th degree. The Board therefore voted to deny the requested increase.

Division of Personnel's Requests for Findings of Fact

Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14: Granted

Paragraph 9: Denied

Paragraph 12: Granted in part; no evidence presented as to total number of structures and work not limited to work on "structures".

Division of Personnel's Rulings of Law

Requests 1, 2, 3, 4, 5, 6: Granted

Based upon the foregoing, the Board voted unanimously to deny the appeal, finding the positions of Forestry Maintenance Mechanic properly evaluated and allocated at salary grade 13.

FOR THE PERSONNEL APPEALS BOARD

Mary Ann Steele

MARY ANN STEELE
Executive Secretary

cc: Stephen J. McCormack, SEA Field Representative

George C. Jones, Commissioner, D.R.E.D.

Virginia A. Vogel
Director of Personnel