

State of New Hampshire

PERSONNEL APPEALS BOARD
Edward J. Haseltine, Chairman
Gerald Allard
Loretta Platt



EXECUTIVE SECRETARY
Mary Ann Steele

PERSONNEL APPEALS BOARD
State House Annex
Concord, New Hampshire 03301
Telephone (603)271-3261

87-C-104

PROMOTION APPEALS TRIBUNAL DECISION

In the Matter Of:

Elizabeth Boulton

September 14, 1987

On Wednesday, July 29, 1987, the Promotion Appeals Tribunal heard the appeal of Elizabeth Boulton, a Youth Counselor I at the Youth Development Center (hereinafter YDC). Ms. Boulton, who was denied promotion to a vacant position of Youth Counselor II, was represented by Stephen McCormack, SEA Field Representative. Superintendent Ronald G. Adams represented the YDC. The Tribunal hearing the matter included Commissioner Edward J. Haseltine (Chairman), and Personnel Officers Edwin J. Goodrich and George E. Liouzis.

The appellant argued that as the only full-time, permanent in-house candidate for promotion, she should have been selected for the vacancy over the successful candidate, a temporary employee. Further, she alleged that the reasons given for her non-selection were inaccurate and could not have been derived from her interview responses, and that the question of why she had waited until this vacancy to apply for the promotion was inappropriate. She also argued that her performance evaluations in her two years at YDC were good, and indicated she was quite capable in her role as a Youth Counselor I.

Robert Kukla, Assistant House Leader at Pinecrest Cottage, YDC, testified regarding the selection process employed to fill this vacancy. He indicated that the Youth Counselor II position was a day position at Pinecrest Cottage. There were five in-house applicants certified as meeting the minimum requirements. Elizabeth Boulton was the only full-time, permanent employee of the five candidates interviewed.

The interview panel, as described by Mr. Kukla, included Don Menswar, Director of Treatment at Pinecrest; John Nadreau, House Leader; Frank Preston, Youth Counselor II; and himself as Acting House Director at Pinecrest. Mr. Kukla further testified that all candidates were asked why they thought they were the best candidate for the daytime opening at Pinecrest, and why they sought promotion to a position of Youth Counselor II. From the re-

PROMOTION APPEAL TRIBUNAL DECISION

In the Matter Of:
Elizabeth Boulton
September 14, 1987

page 2

sponses, review of applications and evaluations, the interview panel was to determine which of the candidates demonstrated the best over-all ability and knowledge to perform the position's responsibilities. Mr. Kukla also testified that the panel had determined Ms. Boulton to be the least qualified of the five candidates for promotion to the daytime position.

Regarding the position's responsibilities, Mr. Kukla indicated that night positions at YDC generally involve insuring that the residents are safe and secure, and rarely involve interaction with students for anything other than "head counts." On the other hand, day positions require knowledge of "open concept" and counselling skills, knowledge of the court system, ability to make and maintain working contacts with social service agencies, familiarity with furlough contracts, and responsibility for supervising activities. He stated that the selected candidate "shined" through the entire selection process. The successful candidate was further described as possessing 11 months of daytime experience in medium, maximum and minimum security buildings, being most knowledgeable of daytime staff activities, and demonstrating good coaching skills. When asked how this employee had developed such skills, Mr. Kukla said he was "motivated," had given up days off and had put in considerable over-time to gain day staff experience.

Another issue addressed was the appellant's attendance record. The appellant stated that she had utilized 141 hours of sick leave, but that all such leave had been approved by her supervisor. She testified that she is a single mother, had difficulty securing babysitting service for her 3 year old son, and frequently had to care for her child when the child was sick. Ms. Boulton stated that this situation of both working and caring for her child resulted in her frequently being over-tired and unable to work, thus necessitating use of sick leave. The appellant argued that her absences should not have been considered a negative factor in her review for promotion. Further, she contended that her supervisor should have counseled her regarding leave use if it were a problem, and that the promotion interview panel should have discussed the matter with her during the interview if it were considered a problem.

Mr. Kukla and Mr. Adams concurred that her performance evaluations had been good and that her leaves had all been approved. However, they testified that the selection had been based upon finding the person most qualified and best suited to the position and that Ms. Boulton's attendance was only one of several factors resulting in her non-selection.

They agreed that selection of a permanent employee over temporary or probationary employees should be made "whenever possible and reasonable" as described by Per 302.03(b)(1) through (3).

PROMOTION APPEALS TRIBUNAL DECISION
In the Matter Of;
Elizabeth Boulton
September 14, 1987

page 2

The Tribunal found that the selection process had been completed in accordance with the Rules, further finding YDC's promotion selection procedure most equitable in that it employed selection by a panel of immediate supervisory staff and peers. The Tribunal found that the YDC had exercised its prerogative in choosing the candidate best suited to the job. The Tribunal did not find that Mr. Kukla or his interview panel erred by not discussing Ms. Boulton's leave use, nor that her attendance record was the principle reason for non-selection. Further, the Tribunal found that it was not incumbent upon the interview panel to counsel Ms. Boulton concerning her use of leave. Based upon the foregoing, the Tribunal voted unanimously to deny Ms. Boulton's appeal.

FOR THE PROMOTION APPEALS TRIBUNAL



MARY ANN STEELE
Executive Secretary
N. H. Personnel Appeals Board

mas

cc: Stephen J. McCormack
Field Representative, SEA

Ronald Adams, Superintendent
Youth Development Center