

State of New Hampshire



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

**APPEAL OF ALAN T. BROWN
DOCKET #92 -C-12
DEPARTMENT OF EMPLOYMENT SECURITY**

RESPONSE TO APPELLANT'S MOTION FOR RECONSIDERATION

August 17, 1993

On June 22, 1993, the Personnel Appeals Board received SEA Field Representative Hurley's letter dated June 22, 1993, requesting reconsideration of the Board's June 15, 1993 decision denying Mr. Brown's reclassification appeal. The Board reviewed the appellant's Motion in conjunction with its June 22, 1993 decision and found that the appellant has offered the same arguments raised in the hearing on the merits, which arguments were duly considered by the Board in reaching its decision.

Accordingly, the Board voted unanimously to deny the instant Motion and to affirm its decision upholding denying Mr. Brown reclassification to Data Processing Manager I.

THE PERSONNEL APPEALS BOARD

Handwritten signature of Mark J. Bennett in cursive.

Mark J. Bennett, Acting Chairman

Handwritten signature of Robert J. Johnson in cursive.

Robert J. Johnson, Commissioner

Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Joan Day, Human Resources Administrator, Employment Security
John Ratoff, Commissioner, Employment Security
Margo Hurley, SEA Field Representative

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June 15, 1993

The New Hampshire Personnel Appeals Board (Bennett Johnson and Rule) met Wednesday, March 17, 1993, to hear the classification appeal of Alan T. Brown, Data Processing Project Manager for the Department of Employment Security. Mr. Brown was represented at the hearing by SEA Field Representative Margo Hurley. Director of Personnel, Virginia Lamberto'n, appeared on behalf of the Division of Personnel.

Ms. Hurley argued that the appellant was working out of class and should be reclassified to Data Processing Manager I, and that she was unaware of anyone at Mr. Brown's level outside of the Office of Information Technology being responsible for testifying before legislative committees on issues related to capital purchases of computer equipment. Mr. Brown testified that the "Impact" factor was the only real factor in dispute. He argued that unless a classification analyst was truly familiar with the complexities of data processing, it would be impossible to conduct a meaningful review of his position. He said that the last time his position had been reviewed was in 1985, and that in the interim, he had been made responsible for long-range planning.

By letter dated March 13, 1992, Mr. Brown requested that the Director reconsider her March 3, 1992 decision denying his request for upgrading and reclassification to the title of Data Processing Manager I, salary grade 31. In support of his request, Mr. Brown argued that none of the Data Processing Project Manager positions to which his had been compared were responsible for the data processing function of an entire agency. He argued that he was responsible for approving all requisitions for data processing items prior to forwarding for review and funding approval by the Deputy Commissioner. Mr. Brown suggested that his position was responsible for meeting all agency objectives in all areas of the data processing function for the Department of Employment Security, which he believed to be equivalent to the level of responsibility of the Data Processing Manager I assigned to the Department of Safety.

Mr. Brown's position of Data Processing Project Manager is currently allocated at salary grade 30. He is seeking an increase of one salary grade, as well as reclassification to the title of Data Processing Manager I. To accomplish that change, the appellant suggested that the Impact factor, currently at the 5th level, should be increased to the 6th level, consistent with the point allocation for Deputy Commissioner, Data Processing Manager I and Data Processing Manager II.

In his request for reconsideration, Mr. Brown indicated he was responsible for developing and issuing grant proposals to obtain Federal funding for special automation projects within the Department of Employment Security. He offered as an example a 1989 grant proposal which generated \$1.4 million, enabling the Department to design and implement a new Benefit Payment System, which he believed to be considerably different from the Project Manager positions to which he had been compared. Mr. Brown also argued that his responsibility for developing and issuing requests for proposals for the acquisition of computer hardware/software and consultant services was similar to that of the Data Processing Manager I, and appeared to be consistent with that position's requirements for negotiating contracts and agreements with other agencies and private vendors. Mr. Brown pointed to the responsibilities he had had to assume following abolition of the Director of Administration position once the incumbent had retired.

In support of his argument for increasing the "Impact" factor, Mr. Brown argued that his position has overall administrative responsibility for meeting agency objectives by directing all areas of the data processing function. He suggested that errors at that level, such as selecting an inadequately sized mainframe computer or poorly developed software would jeopardize the agency's ability to pay unemployment compensation benefits in a timely fashion. He argued that errors at his level would have a negative effect on the over-all, long-term success of the agency.

Ms. Lamberton testified that Mr. Brown's position had been compared to other Data Processing Project Managers in State government, and that his responsibilities had been compared both to the accountabilities for that classification and the classification to which he had requested upgrading. Ms. Lamberton said that although Mr. Brown may be responsible for the overall management of the data processing function of his agency, those responsibilities did not rise to the level of Impact required of the Data Processing Manager I position assigned to the Department of Safety.

Ms. Lamberton argued that the changes to which the appellant referred had been adequately addressed in the 1985 reclassification, which upgraded the subject position from Management Systems Analyst/Programmer II, salary grade 25, to Data Processing Project Manager, salary grade 30. She further argued that the scope of the appellant's responsibility did not warrant allocation at the highest of the 6 available levels for the "Impact" factor, as that level required planning and developing agency programs. The level at which the appellant's position is allocated, level 5, already addresses responsibility for major aspects of agency program planning and development. She testified that the Deputy Director position at the Department of Employment Security is a classified position, is rated at the 6th level for the "Impact" factor, and is the position to which Mr. Brown reports.

RSA 21-I:57 provides for appeal by employees, department heads, or both, affected by the allocation of a position in a classification plan. The statute, in pertinent part, provides the following:

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.

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.

At the conclusion of the hearing, the Director submitted requests for findings of fact and rulings of law detailing the dates of relevant communications between her Division and the Department of Employment Security, and asserting that the information presented to her in the original request for reclassification and subsequent request for reconsideration convinced her that Mr. Brown's position was properly classified as Data Processing Project Manager, salary grade 30. Although the Director alluded to the differences between the appellant's position and that of the Data Processing Manager I at the Department of Safety, she offered no actual evidence of similarity or dissimilarity between the two positions. The proposed "facts" submitted by the Director simply support a conclusion that the Director's decision was predicated upon her analysis of the classification request. Absent information concerning the duties and responsibilities of similar positions in State service, the Board hesitates to simply adopt her analysis. However, the burden is not upon the Director to prove that the position should not be reclassified, but upon the appellant to prove that the position should be reclassified.

The evidence supports a finding that a review was completed in accordance with the Director's rules, and that the review involved comparison of the appellant's position to similar positions in State service. Mr. Brown failed to offer proof that his responsibilities were equivalent to those of Data Processing Managers, and that there had been sufficient change since the last upgrading to warrant reallocating his position from salary grade 30 to salary grade **31**.

Accordingly, the Board voted unanimously to deny Mr. Brown's appeal. The State's Requests for Findings of Fact are granted to the extent that they address the manner in which the appellant's position was reviewed and a decision issued. The State's proposed rulings of law are granted to the extent that they are consistent with the foregoing.

THE PERSONNEL APPEALS BOARD



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