

State of New Hampshire

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82-C-117

APPEAL OF ALBERT DION
Department of Labor

January 12, 1988

On Tuesday, November 24, 1987, the Personnel Appeals Board, Commissioners Platt and Cushman sitting, heard the appeal of Albert N. Dion, an employee of the Labor Department. The appellant, who was represented at the hearing by SEA Field Representative Stephen McCormack, appeared appealing the Division of Personnel's decision denying a request to upgrade his position of Elevator Inspector from salary grade 20 to salary grade 24. That position was established at salary grade 20 at the request of the Department of Labor on July 1, 1983. Edward J. McCann represented the Division of Personnel. Both parties submitted written arguments and supporting documentation for the Board's review prior to the hearing. The appeal, originally scheduled for hearing at a previous meeting of the Board, was rescheduled to this date at the appellant's request because of a medical emergency.

At issue in this appeal are the point allocations for the attributes of Working Conditions, Physical Effort and Personal Relationships. In support of his request that the Working Conditions attribute be increased from the 3rd to the 5th degree, the appellant argued that he is "...required by the very nature of the position to expose [himself] to working conditions that could and would result in either partial disability, total disability or death, if extreme care is not exercised.!" The Board, upon review of the Evaluation Manual, found that the 5th degree, defined as "work involving unusual and the most disagreeable extreme which are continuous..." exceeds the description of the appellant's work. Rather, the Board found this attribute properly allocated at the 3rd degree. The Board appreciated the risks faced by the appellant at times during the exercise of his responsibilities, but did not find those risks of a continuous nature and thus denied the request to reallocate this attribute to the 5th degree.

For the attribute of Physical Effort, the appellant requested an increase from the 2nd to the 4th degree. This attribute is defined in the Evaluation Manual as requiring, "the continuous lifting of material weighing up to 25 lbs., or frequent lifting of heavy materials weighing over 60 lbs. Also work requiring frequent strain due to strenuous work positions." The Manual also defines "continuous" as 50% or more of the time and "frequent!" as 10%--50% of the time." By definition, the appellant would thus be involved from 60% to 100% of the time in lifting materials from 25 lbs. to 60 lbs. in weight. The Board found the appellant's position could not require such extensive lifting of those materials given his description of the amount of travel required in

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his position and the degree of administrative responsibilities described in his position classification questionnaire and written arguments submitted to the Board. Those responsibilities presented included "approves or disapproves all elevator blueprints as to whether they comply with American National Standards Institute Code for Elevators," "holds hearings with elevator inspectors, architects and probably owners of elevators," "responsible for writing administrative rules and represents department at hearings," "continuous contacts with various private and public companies, local and state agencies, and other concerned parties (architects, building owners, etc.), to insure that proposed installations meet with the requirements of existing State Law, RSA 157:3..." The Board thus voted to deny the request that the Physical Effort attribute be increased to the 5th degree.

The Board also did not find that the appellant's position should be rated at the highest degree for the attribute of Personal Relationships. That attribute is defined at that degree in the Evaluation Manual as, "work that involves important contacts of such qualitative nature as to secure acceptance or support of major departmental policies. Requires explanation and interpretation of a highly technical or debatable nature so as to insure continued support and expansion of a department's program." The Board did not find the appellant's description of his role in the Department of Labor as qualifying for reallocation to the highest degree for this attribute.

The Board noted that the Department of Labor supported the appellant's upgrading request, and appreciates the desire of all State agencies to reward valuable employees for service rendered. That goal, however, can not and should not be accomplished by virtue of position reclassification or reallocation. The Board found the appellant's position properly classified as an Elevator Inspector, salary grade 20., and thus voted to deny Mr. Dion's appeal.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE
Executive Secretary

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cc: Stephen J. McCormack, Field Representative
State Employees' Association

Jean Houghton, Director, Inspection Division
Department of Labor

Virginia A. Vogel, Director of Personnel
State of New Hampshire