

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF RUTH HOBBS

Docket #97-C-5

Department of Employment Security

June 12, 1997

The New Hampshire Personnel Appeals Board (Bennett and Johnson) met on Wednesday, April 30, 1997, under the authority of RSA 21-I:57, to hear the appeal of Ruth Hobbs, an employee of the Department of Employment Security. Ms. Hobbs, who was represented at the hearing by Thomas Hardiman, SEA Director of Field Operations, was appealing the Division of Personnel's January 16, 1997, decision downgrading her position from Supervisor V, salary grade 25, to Manager, salary grade 23. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel. The appeal was made on offers of proof by the representatives of the parties. The Board, with the consent of the parties, also permitted Joan Day, Human Resources Administrator for the Department of Employment Security, to discuss the reorganization of the bureau to which Ms. Hobbs is assigned.

The record in this matter consists of the audio tape recording of the hearing, documents submitted by the parties prior to the hearing, notices and orders issued by the Board, and any pleadings and exhibits offered by the parties at the hearing. At the close of the hearing, Director Lamberton submitted the Division of Personnel's Requests for Findings of Fact and Rulings of Law. To the extent that they are consistent with the decision below, they are granted. Otherwise, they are denied.

On August 26, 1996, the Department of Employment Security filed a written request with the Division of Personnel to downgrade Ms. Hobbs' position as part of a reorganization of the Unemployment Compensation Bureau. In support of its request, the Department of Employment

Unemployment Compensation Bureau. In support of its request, the Department of Employment Security indicated that the reorganization was intended to centralize operations and economize labor resources within the bureau. Joan Day, Human Resources Administrator for the department, wrote:

“The Supplemental Job Description for the Supervisor V, position #11170, has been modified to reflect changes to the position's accountabilities. In keeping with the other supervisory staff within the Benefits Section, we recommend a reclassification of this position to Manager (grade 23)...”

In her January 16, 1997, response, Director Lamberton wrote:

“The subject position is responsible for supervising the Wages and Special Programs Unit in the Unemployment Compensation Bureau. The primary function of the position is to supervise the subordinate staff and program activities in assuring the correct and prompt payment, charging and billing of unemployment benefits per state and federal laws... The primary change is that two work units, the Benefit Payment Control Unit and the Central Adjudication Unit, no longer report to Ms. Hobbs. I have also taken into consideration your agency's request to use the Manager classification more broadly than in the past, when it was used only for the supervisor positions in your local offices....”

By letter dated January 28, 1997, Thomas Hardiman requested a hearing to appeal Ms. Hobbs' downgrading. He argued that the change was "due to a re-structuring within the agency and a questionable change in job duties." He argued that the agency changed the job titles and established evaluation points for Ms. Hobbs position "in an effort to fit her current position into a neat looking organizational chart."

At the hearing, Mr. Hardiman argued that the classifications of Manager and Supervisor V have identical point ratings for seven of the nine classification evaluation factors. He argued that in order to support its decision to downgrade Ms. Hobbs' position, the agency removed some of the appellant's responsibilities so that it could support its request to decrease the "Complexity" factor for her classification by 30 points. However, he argued that a 30 point overall reduction in the points assigned to the classification was insufficient to support the request to downgrade the appellant's position from salary grade 25 to salary grade 23. Therefore, he argued, the "Working

Conditions" factor was decreased as well, even though there had been no change in the appellant's actual working conditions.

The classification of Supervisor V is evaluated at the second degree for the factor of "Working Conditions" described on the class specification as follows:

"Requires performing regular job functions in a controlled environment with minimal exposure to disagreeable job elements and little risk of hazard to physical or mental health."

The classification of Manager is assigned the first degree for the factor of "Working Conditions" described in the class specification as follows:

"Requires performing regular job functions under good conditions in a safe working environment."

Mr. Hardiman argued that Ms. Hobbs is still working at the same desk, in the same office, handling the same assignments as she did before the reorganization. He argued that there has been virtually no change in the appellant's working conditions, and therefore, no justification for the reduction in "Working Conditions" factor from the second to the first degree.

Ms. Lamberton stated that when the Department of Employment Security proposed a reorganization of the Unemployment Compensation Bureau and requested a downgrading of the Supervisor V position, she assigned a classification analyst to review the position. She said that the analyst discussed the position with Ms. Hobbs, with the appellant's supervisor Barbara Carr, and with Darrell Gates, Administrator of the Unemployment Compensation Bureau. She argued that when the Department removed responsibility for management of several program components from Ms. Hobbs' accountabilities, the changes in the duty assignments supported the proposed downgrading from Supervisor V to Manager. Ms. Lamberton argued that when the appellant's position was classified as a Supervisor V, the position probably was over-graded for the "Working Conditions" factor. She offered no evidence with respect to the actual conditions under which the appellant works.

In an appeal, the party seeking to set aside a decision of the Director or the appointing authority has the burden of proof. In this instance, the appellant made an uncontroverted offer of proof that there had been no change in her working conditions, and therefore no justification for the reduction in that factor. The Board generally will defer to the Division's expertise in position evaluations and classifications. In this instance, however, the Division has asked the Board to simply accept as fact the argument that the "Working Conditions" factor must have been over-rated in the past. In light of the appellant's offer of proof, and in the absence of any evidence or persuasive argument to the contrary, the Board is unwilling to adopt the Division's argument as fact.

Accordingly, the Board voted to grant Ms. Hobbs' appeal to the extent that there is no evidence of a change in her working conditions, and no evidence to support the proposition that this factor was over-rated in the past. Therefore, the Director's January 16, 1997, decision to downgrade the appellant's position to Manager, salary grade 23, is reversed. However, the position may be re-evaluated at a future date as duties are added or taken away, or as changes occur which would warrant further review.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD



Mark J. Bennett, Chairman



Robert J. Johnson, Commissioner

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