

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF CASE TECHNICIAN I INCUMBENTS MICHELLE MCCARTY, CINDY SCHOLOMITH AND JEANNIE ST. PIERRE

(Docket #97-C-8)

March 3, 1999

The New Hampshire Personnel Appeals Board (Bennett, Johnson and Rule) met on Wednesday, August 6, 1997, under the authority of RSA 21-I:57, to hear the appeals of Case Technicians of the Department of Health and Human Services.

The appeal was originally filed on April 10, 1997, by SEA Director of Field Operations Thomas Hardiman. In that letter, Mr. Hardiman asked the Board to order that all pertinent documents be turned over to the appellants, to schedule the matter for a prehearing conference, and to set the matter for hearing as soon as possible. Absent any specific motion for discovery or a reason why the matter should be scheduled for a prehearing conference, the Board notified the parties by letter dated July 18, 1997, that the Board had scheduled this matter for a hearing on the merits of the appeal on August 6, 1997.

By letters dated July 22 and July 24, 1997, Ward Freeman, Manager of Field Services for the State Employees' Association asked the Board to postpone the hearing until the State had provided the documents requested in the original appeal document. He also asked that the Board's records indicate that Jean Chellis, SEA Field Representative, would be representing the appellants. He informed the Board that although Thomas Hardiman had filed the initial appeal, the case had been assigned to Margo Steeves, Field Representative, who had just retired, and that the case had then been assigned to Jean Clzellis, SEA Field Representative. The Board denied

Board denied the request to postpone the hearing. On the date of hearing, neither Ms. Chellis nor Mr. Hardiman appeared for the hearing as scheduled.¹ Virginia Lamberton and Michael McAulay appeared on behalf of the Division of Personnel.

Personnel Director Lamberton made a motion to dismiss the appeal, arguing that neither the appellants nor the agency had requested reclassification of the positions in question, and that there never was a decision from which to appeal. She referred the Board to the initial appeal document dated April 10, 1997, in which the appellants had written:

"At some time the agency (H&HS) requested a review of the Case Technician series and made suggestions, either in the original request or in a subsequent written document or [sic] desk audits.

"An E-Mail message to all office managers notified the employees that the Director of Personnel had rejected their positions.. The same message notified the employees that the agency was not going to further the appeal (process).

"On April 9, 1997 we requested that the agency furnish us with any and all documentation on the issue so that the employees could further the appeal on their own. The agency verbally rejected the request because the correspondence between the agency and the Director of Personnel was an internal matter. They did not wish to provide the employees with the documents."

RSA 21-I:57 provides the following:

"§ 21-I:57 Allocation Review. – The employee or the department head, or both, affected by the allocation of a position in a classification plan shall have an opportunity to request a review of that allocation in accordance with rules adopted by the director under RSA 541-A, provided such request is made within 15 days of the allocation. 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. The employee or department head, or both, shall have the right to appeal the director's decision to the personnel appeals board in accordance with rules adopted by the board under RSA 541-A. 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 con-ection."

¹ Although he was not present as the representative of record, SEA General Counsel Michael Reynolds spoke briefly on the appellants' behalf.

Absent any evidence that either the appellants or the agency had requested a review of these positions in accordance with rules adopted by the Director under RSA 541-A, the Board found that there was no reclassification decision to appeal. Had there been such a request or reclassification decision, the appellants could have provided evidence of it in submissions that should have been filed within 20 days of the original request for hearing, in accordance with Per-A 208 of the Board's rules. However, after the initial filing of their appeal, the appellants offered no evidence or documentation in support of their appeal. Accordingly, the Board voted to dismiss the appeal.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Chairman

Robert J. Johnson, Commissioner



Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel, 25 Capitol St., Concord, NH 03301
Sandra Platt, Manager of Human Resources, Dept. of Health and Human Services, 6
Hazen Dr., Concord, NH 03301
Thomas Hardiman, SEA Director of Field Operations and Jean Cliellis, SEA Field
Representative, PO Box 3303, Concord, NH 03302-3303