

State of New Hampshire



PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
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APPEAL OF JOSEPH ROGERS February 27, 1989

On October 12, 1988, the Personnel Appeals Board, Commissioners Platt and Cushman sitting, heard the appeal of Joseph Rogers, Assistant Consumer Advocate at the Public Utilities Commission. Mr. Rogers was appealing the step in grade assigned to him as a result of the Division of Personnel's decision to reallocate his position from salary grade 23 to salary grade 27. The appellant was represented by SEA Field Representative Ann Spar. Virginia A. Vogel, Director of the Division of Personnel appeared on behalf of the Division of Personnel.

In support of his appeal, the appellant contended that the original grade assigned to his position was incorrect and that the reallocation simply corrected that error. He therefore argued that he should have been placed at the maximum step in labor grade 27 as he had been when hired at salary grade 23. See Per. 304.01 (g)(1).

Upon review of the evidence presented, the Board made the following findings of fact and rulings of law. On or about April 15, 1987, the appellant filed a formal request with the Division of Personnel requesting that his position be reviewed, and reclassified and upgraded to a Labor Grade 32. ON that same day, the appellant's supervisor sent a letter to Director Vogel indicating his support for the requested upgrade. Neither of those letters suggested that an error had been made in assigning the position originally. Indeed, Mr. Rogers' letter specifically cited Per 303.04 "Notification of Change in Position Content" as the basis for his request for review. The review was completed and Mr. Rogers' position was upgraded to Labor Grade 27.

The position of Assistant Consumer Advocate was created by the legislature in July, 1986. Therefore, for at least six months, the appellant and/or his supervisor, both attorneys, took no action to identify or rectify an error in the original grade assignment of this position. The Board found such inaction relevant when considering whether original assignment was incorrect. The Board also noted that no evidence was presented by the parties concerning the original assignment of labor grade to the position, including documentation detailing position responsibilities.

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Based on the evidence presented, the Board could not find the original assignment of labor grade incorrect and therefore voted to deny the appeal. The Board further voted to grant in its entirety the request for findings of fact and rulings of law filed by the Division of Personnel.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE
Executive Secretary

cc: Ann Spear, SEA Field Representative
Virginia A. Vogel, Director of Personnel
Michael Holmes, Consumer Advocate