

State of New Hampshire

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PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
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APPEAL OF BRENDA ST. AUBIN
N.H. Liquor Commission
Docket #91-P-2
August 13, 1990

The New Hampshire Personnel Appeals Board (McNicholas, Cushman and Johnson) met Wednesday, July 25, 1990, to review the July 2, 1990 appeal filed by SEA Field Representative Margo Hurley on behalf of Brenda St. Aubin, an employee of the New Hampshire Liquor Commission. In support of her appeal of non-selection to the position of Retail Store Clerk II in Store #60, Ms. St. Aubin argued that the employee chosen to fill the position had been a temporary Retail Store Clerk II, and that she had resigned her position as Manager in another New Hampshire Liquor Commission Store when she changed her residence. Therefore, Ms. St. Aubin contended that she, as a permanent full-time employee should have been given preference in promotion over a temporary employee.

On July 9, 1990, George E. Liouzis, Human Resource Coordinator of the Liquor Commission, filed a Motion to Dismiss, stating that the selected applicant was a full time employee, had no break in service, and should be treated as a full-time permanent employee. In support of his motion, he submitted a copy of an April 3, 1990 letter from Personnel Director Virginia A. Vogel which stated, in pertinent part:

"Once an employee has completed six months of continuous, full-time service, he/she is treated as a permanent employee, with all the rights and benefits which accrue to a full-time employee..."

On July 16, 1990, Ms. Hurley responded, arguing that "The person appointed to the permanent full-time clerk/cashier position in Store #60, was a full time temporary employee. We can appreciate that full time temporary employees can apply for and receive full time permanent positions. This does not present a problem, unless it interferes with a full time permanent employees opportunity for promotion."

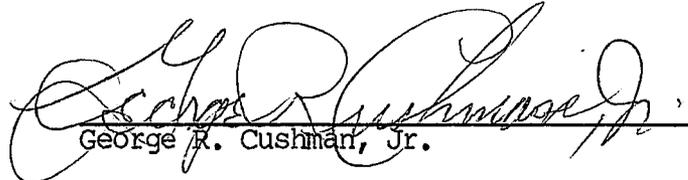
Appellant attempts to draw a distinction between full-time employees in class 10 positions, and full-time employees in class 50 funded positions which the Rules of the Division of Personnel clearly do not provide. Per 302.03(b)(3)

states, "While probationary and part -time employees not having six months service within a one year period can respond to departmental posting, preference in selection must be given to permanent employees". (Emphasis added.) The parties agree that the selected candidate is a full-time employee and has more than six months service. Appellant is not entitled to any additional preference in selection when compared with the successful candidate.

Pursuant to the provisions of Per-A 202.04(a) of the Rules of the Personnel Appeals Board, finding that there were no material facts in dispute, voted to decide the matter without evidentiary hearing. In so doing, the Board concurs with the Director of Personnel in considering full-time employees who have been continuously employed in a full-time capacity for six months or more, regardless of the source of funding for their positions, to be "permanent" employees for the purpose of promotion. Therefore, finding that Appellant has provided no basis for his appeal other than that discussed above, the Board voted unanimously to grant the Liquor Commission's Motion to Dismiss.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


George R. Cushman, Jr.


Robert J. Johnson

cc: Margo Hurley, SEA Field Representative
George E. Liouzis, Human Resource Coordinator, N.H. Liquor Commission
Virginia A. Vogel, Director of Personnel
Civil Bureau, Office of the Attorney General