

State of New Hampshire

PERSONNEL APPEALS BOARD
Edward J. Haseltine, Chairman
Gerald Aillard
Loretta Platt



EXECUTIVE SECRETARY
Mary Ann Steele

87-0-106

PERSONNEL APPEALS BOARD
State House Annex
Concord, New Hampshire 03301
Telephone (603)271-3261

APPEAL OF JAMES BARTLETT AND DANIEL WALSH

Reconsideration Request

September 16, 1987

By letter dated July 14, 1987, the State Employees' Association requested reconsideration of the Personnel Appeals Board's June 29, 1987 decision dismissing the matter of Daniel Walsh and James Bartlett, employees of the Department of Corrections who had appealed a transfer.

Per 101.38 of the "Rules of the Department of Personnel" define Transfer as, "any change of an employee from one position to another position in the same or different class having the same salary grade," as was noted in the Board's dismissal of June 29, 1987. Division of Personnel records give no indication that a "transfer" occurred. The original hearing request stated, "On May 26, 1987, the New Hampshire Department of Corrections issued a Policy and Procedure Directive indicating that the position of [Messrs. Bartlett and Walsh] would be moved under the Investigations Office, effective June 1, 1987." The Board therefore found that no change had occurred in the appellants' positions. The only actual change was the supervisory/administrative structure to which these positions report.

In the request for reconsideration, the State Employees' Association contended that, "Prior to that transfer Christopher Henchey and Dennis Murphy met with Commissioner Ronald Powell and was [sic] verbally assured that there would be no transfer of employees from the Secure Psychiatric Unit except for emergency reasons... After that Dennis Murphy met with Governor John Sununu, discussed the transfer issue, and informed the Governor of the assurances we had received... On June 5, 1987, James Bartlett and Daniel Walsh, were transferred from the Secure Psychiatric Unit to the Investigations Office, Department of Corrections."

The appellant did not, in his reconsideration request, address the central issue in the Board's decision of June 29, 1987, specifically that, "...these employees were not 'transferred' as defined by Per 101.38 of the 'Rules of the Department of Personnel' meaning, '...any change of an employee from one position to another in the same or different class having the same salary grade.'"

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The appellant failed to support a claim that the,subject employees were transferred, as defined by the "Rules of the Department of Personnel." The Board therefore voted to reaffirm its earlier decision dismissing the matter.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE
Executive Secretary

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cc: Commissioner Ronald Powell
Department of Corrections

Richard Greenwood, Personnel Officer
Department of Corrections

Stephen J. McCormack, Field Representative
State Employees' Association

Virginia Vogel
Director of Personnel

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June 29, 1987

Stephen J. McCormack
Field Representative
State Employees' Association of N.H.
163 Manchester Street
Concord, New Hampshire 03301

re: James Bartlett and Daniel Walsh

Dear Mr. McCormack:

By letter dated June 3, 1987, the State Employees' Association requested a hearing on behalf of the above-named employees of the Department of Corrections to appeal transfer from the Secure Psychiatric Unit, Department of Corrections, to the Investigations Office, Department of Corrections.

The appellants contended that, "On May 26, 1987, the New Hampshire Department of Corrections issued a Policy and Procedure Directive indicating that the positions of the above-named employees would be moved under the Investigations Office, effective June 1, 1987." The Board found that the only real change occurring as a result of these alleged transfers was the supervisory/administrative structure affecting the individuals responsible for transporting persons admitted to the Secure Psychiatric Unit.

The Board also found that management at the Department of Corrections exercised its prerogative in establishing staffing patterns and lines of authority within the Department. The Board further found that these employees were not "transferred" as defined by Per 101.38 of the "Rules or the Department of Personnel" meaning, "...any change of an employee from one position to another in the same or different class having the same salary grade."

Assuming that the supervisory/administrative restructuring relative to these positions should be viewed as a transfer, Per 302.03(b) of the "Rules" states, "It is the prerogative of management to determine who and when employees are to be transferred, keeping in mind that they can be made only for the best interests of the agency. Such transfers are subject to appeal to the [appeals board] by the employee affected if he feels that the transfer was made for some other reason."

Stephen J. McCormack
Field Representative, SEA
re: James Bartlett and Daniel Walsh

June 29, 1987

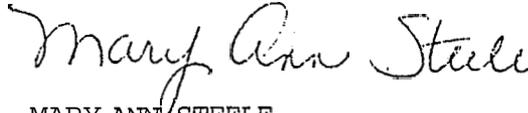
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The appellants contended that, "...the proposal of centralizing the transportation services, as proposed is not in the best interests of the agency." The appellants did not however, provide any other reason for which such centralization was implemented.

Based upon the foregoing, the Board voted to dismiss this appeal.

Very truly yours,

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE
Executive Secretary

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cc: Warden Michael Cunningham
N. H. State Prison

Commissioner Ronald L. Powell
Department of Corrections

Virginia A. Vogel
Director of Personnel