

# State of New Hampshire

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



EXECUTIVE SECRETARY  
Mary Ann Steele

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

87-0-104

APPEAL OF LT. SYDNEY CARLSON

September 16, 1987

By letter dated May 19, 1987, the State Employees' Association requested a hearing on behalf of Lt. Sydney Carlson to appeal his transfer from the Secure Psychiatric Unit, Department of Corrections, to New Hampshire State Prison.

Per 302.03(b) of the "Rules of the Department of Personnel" 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 commission [Appeals Board] by the employee affected if he feels that the transfer was made for some other reason." While the appellant claimed the transfer was not made for the best interests of the agency, he failed to indicate what other motive the Department of Corrections might have had for his transfer. Further, in the attachment to the hearing request as submitted by the SEA, the Department of Corrections letter of May 19, 1987 from Commissioner Powell to SEA Field Representative McCormack, described the practice of "strategic rotation" in positions such as Lt. Carlson's to, "...prevent or ameliorate what could be the loss of personal objectivity in managing security." The Department of Corrections listed such significant factors as "stress and burnout" as contributing to loss of personal objectivity.

The Board was not persuaded that Lt. Carlson's transfer was made for any reason other than the agency's best interests. Therefore, the Board voted to deny the request for an evidentiary hearing to appeal this transfer.

FOR THE PERSONNEL APPEALS BOARD

A handwritten signature in cursive script that reads "Mary Ann Steele".

MARY ANN STEELE  
Executive Secretary

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cc: Stephen McCormack, Field Representative  
State Employees' Association

Ronald Powell, Commissioner  
Department of Corrections

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## APPEAL OF LT. SYDNEY CARLSON

November 13, 1987

At its meeting on October 13, 1987, the Personnel Appeals Board considered the State Employees' Association's October 1, 1987 request that the Board reconsider its September 16, 1987 decision denying Lt. Carlson a full evidentiary hearing before the Board to appeal his "transfer". With regard to the appellant's rationale for reconsideration, the Board found the following:

The appellant requested an evidentiary hearing to determine if, "a)...the transfer was in fact in the best interests of the agency, regardless of motivation; and b) whether Per 302.05(a) implies that involuntary transfers are to be made only when a vacancy exists." The appellant further stated, "We do not intend to raise or litigate before the Personnel Appeals Board the issue of motivation for the transfer."

In attachments submitted by the appellant in his initial appeal request, the reasons for "transfer" were clearly defined by the Department of Corrections. That Mr. Carlson "has raised the issues of his intimate awareness of the operations of the Secure Psychiatric Unit, his responsibility for security there, etc." does not in any way diminish the appointing authority's prerogative to make transfers and staff assignments appropriate to the needs of the agency.

Mr. Carlson's representative argued that the appellant had been denied his statutory right to a hearing. The Board ruled that Mr. Carlson's statutory rights to appeal decisions relative to his employment in the State classified service exist only as said employment is defined by the "Rules of the Department of Personnel." Insofar as the "rules" describe rights to appeal of a transfer, Per 302.05(b) states that "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...by the affected employee if he feels that the transfer was made for some other reason." The appellant not only failed to indicate in either his original request for an appeal hearing or in his reconsideration request what the "other reason" might be, but indicated that he did not "intend to raise or litigate before the Personnel Appeals Board the issue of motivation for the transfer."

APPEAL OF LT. SYDNEY CARLSON  
MOTION FOR RECONSIDERATION

November 13, 1987

page 2

Having carefully and repeatedly reviewed materials filed by the appellant for consideration by the Board, the appellant has in no case indicated why the action taken by the appointing authority was inappropriate or what the "other reason" described in the Rules might be. Without some indication of why the appellant thought the transfer was ordered, particularly in light of the appellant's contention that he would neither raise nor litigate the reasons for the transfer, the Board found no reason to grant a full evidentiary hearing.

Based upon the foregoing, the Board voted unanimously to reaffirm its earlier decision and to deny the requested reconsideration.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE  
Executive Secretary

cc: Ronald Powell, Commissioner  
Dept. of Corrections

Richard Greenwood, Personnel Officer  
Department of Corrections

Virginia A. Vogel  
Director of Personnel