

State of New Hampshire



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

APPEAL OF RICHARD W. KEEGAN, JR.

Department of Transportation
Docket #95-O-5

June 7, 1995

The New Hampshire Personnel Appeals Board (Bennett and Rule) met Wednesday, May 17, 1995, to consider the appeal of Richard W. Keegan, Jr., an employee of the Department of Transportation. By letter dated May 1, 1995, SEA Field Representative Jean Chellis requested a hearing on Mr. Keegan's behalf to appeal his agency's refusal to establish a new increment date for him of March 10th, the anniversary of his 1986 "re-entrance" into State classified service.

Ms. Chellis stated that Mr. Keegan was promoted from Civil Engineer IV to Civil Engineer V, effective July 23, 1993, and became eligible for additional salary increments in his new salary grade. Ms. Chellis stated that when Mr. Keegan received his April 28, 1995 paycheck, it reflected his annual increment payment effective April 1, 1995, not March 10, 1995. Ms. Chellis stated:

"...Mr. Keegan believes, that his annual increment should have been effective March 10, 1995 in accordance with Per 901.03(b). ...He believes the department also erred last year when they paid his annual increment effective April 1, 1994 instead of March 10, 1994. Mr. Keegan believes the department's action is in violation of Per 901.03(b) of the rules and is seeking retroactive pay and future payment of increments in accordance with Per 901.03(b)."

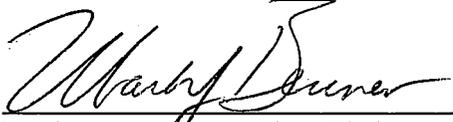
Ms. Chellis also asserted that the appellant "...just recently learned from a co-worker about the provisions of Per 901.03(b)."

On May 12, 1995, the Board received Personnel Director Virginia Lamberton's Motion to Dismiss the Appeal. It then received Ms. Chellis' response to that Motion on May 17, 1995.

After reviewing the pleadings filed by the parties, the Board, upon its own motion, voted to dismiss Mr. Keegan's appeal as untimely. If Mr. Keegan were correct, and his increment had been due on March 10, 1995, it would have been reflected in his March 31, 1995 paycheck. Under the provisions of RSA 21-I:58, the Rules of the Division of Personnel and the Rules of the Personnel Appeals Board, Mr. Keegan had 15 days from the date of the action in dispute in which to file an appeal. Since the alleged violation of Per 901.03 (b) occurred when the Department of Transportation failed to compensate Mr. Keegan at the higher step in his new

salary grade in the check issued March 31, 1995, an appeal must have been received by this Board not later than April 15, 1995, to be considered timely. The Board did not consider Mr. Keegan's alleged lack of familiarity with the provisions of Per 901.03(b) to be a mitigating factor in determining the timeliness of his appeal.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Jean Chellis, SEA Field Representative
Fran Buczynski, DOT Human Resources Administrator

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Docket #95-O-5

July 5, 1995

By letter dated June 12, 1995, SEA Field Representative Jean Chellis requested reconsideration of the Board's June 7, 1995 decision in the above-captioned appeal. In support of that request, Ms. Chellis argued that the Board should "...determine that Mr. Keegan's lack of familiarity with the provisions of Per 901.03(b) and other personnel and Personnel Appeals Board rules" constituted "good cause" to waive the requirement for timely filing of his appeal. The Board does not agree. The Rules of the Division of Personnel have been in effect since April 27, 1992. Ms. Chellis failed to persuade the Board that Mr. Keegan's lack of familiarity with those rules some three years later constitutes "good cause" sufficient to warrant waiving the requirement for timely filing of an appeal. Accordingly, the Board voted to deny the Appellant's request and affirm its decision that Mr. Keegan's appeal was untimely.

THE PERSONNEL APPEALS BOARD

Handwritten signature of Mark J. Bennett in cursive script.

Mark J. Bennett, Acting Chairman

Handwritten signature of Lisa A. Rule in cursive script.

Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Jean Chellis, SEA Field Representative
Fran Buczynski, DOT Human Resources Administrator