

State of New Hampshire



PERSONNEL APPEALS BOARD

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

89-0-103

APPEAL OF PAUL LAVOIE

March 29, 1989

On February 15, 1989, the Promotion Appeals Tribunal consisting of Chairman Peter C. Scott (Personnel Appeals Board), Sharon Sanborn, Human Resource Coordinator (New Hampshire Hospital) and George Liouzis, Human Resource Coordinator (New Hampshire Liquor Commission) heard the appeal of Paul Lavoie, an employee of the Department of Safety who was appealing his non-selection to the position of Pupil Transportation Safety Supervisor. Mr Lavoie was represented by SEA Field Representative Ann Spear. The Department of Safety was represented by Robert K. Turner, Director of Motor Vehicles and Edwin J. Goodrich, Human Resource Coordinator.

Mr Lavoie testified that in his view, he had all the qualifications for the position and was better qualified than the selected candidate. He also did not want the Tribunal to vacate the position, since this would not be in the best interest of the selected candidate, but requested instead that the Tribunal order favorable consideration for other vacancies. The Tribunal reminded Mr Lavoie that the recommendations he requested are reserved to the Tribunal pending appeal processes and outcomes.

Robert K. Turner testified that as a result of his interviewing all the candidates for the position, Mr Lavoie was not selected over the successful candidate because the selected candidate was better qualified for the position. Per 302.03 (b) provides: "Selection for such promotion shall be based upon capacity for the vacant position, ability as evidenced by past performance and length of service with the department."

The Tribunal concurred that interview of candidates is an integral part of the selection process which helps determine capacity for the vacant position. The Tribunal, upon review of the questions used during the interview process, believed they were appropriate. As was also pointed out by Mr Turner, all factors were considered including supervisory capacity, communication skills, public speaking ability and general interpersonal communication skills and motivation for the position.

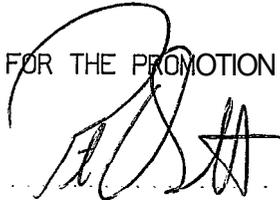
The interview process would certainly lend itself to determining an applicant's capacity for the vacancy, motivation and communication skills, which were deemed necessary for this position.

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Ann Spear, SEA Field Representative represented Mr. Lavoie because of his lack of familiarity with procedures related to appearing before the Tribunal. One of the problems encountered by Mr. Lavoie's late request for representation was a lack of exchange of information between the appellant and the Department of Safety. The Tribunal was able to facilitate this exchange of information during the appeal hearing.

Having reviewed the evidence presented, the Tribunal found no evidence of any violations of Personnel rules concerning the selection made for the position under appeal. The Tribunal therefore voted to deny the appeal.

FOR THE PROMOTION APPEALS TRIBUNAL



Peter C. Scott, Esq.
Personnel Appeals Board

cc: Ann Spear
SEA Field Representative

Edwin J. Goodrich, Human Resource Coordinator
NH Department of Safety

Virginia A. Vogel
Director of Personnel

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MOTION FOR RECONSIDERATION

Appeal of Paul E. Lavoie
Department of Safety

May 10, 1989

By letter dated April 18, 1989, SEA Field Representative filed, on behalf of the above-named appellant, a request for reconsideration of the Promotion Appeals Tribunal's decision of March 29, 1989 in the matter of **Mr. Lavoie's** denial of promotion to the position of Pupil Transportation Safety Supervisor.

In support of that request, Appellant argues that "there was no exchange of documents or other information as required by the Rules of the Personnel Appeals Board prior to the hearing. There was no opportunity for the appellant or his representative to review such documentation presented at the hearing so that a response, with any supporting evidence, could be presented at the hearing, even though the Tribunal was able to facilitate its exchange at that time."

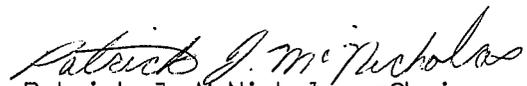
The Board's records indicate that **Mr. Lavoie**, by letter dated September 22, 1988, requested a hearing before the Promotion Appeals Tribunal to appeal his non-selection to the vacant position of Pupil Transportation Safety Supervisor. He was notified by Board order dated January 30, 1989 that a hearing on the matter had been scheduled for February 15, 1989 before the Promotion Appeals Tribunal. No appearance was filed by any person representing **Mr. Lavoie** until the day of the hearing when SEA Field Representative Spear presented the Tribunal with a letter indicating that she would be representing **Mr. Lavoie** at the hearing.

Appellant had nearly five months between initial filing of his appeal and the hearing before the Tribunal to prepare his case. At the hearing, Appellant could also have requested additional time in which to file documents or evidence which he believed supported his appeal. Appellant's failure to adequately support his appeal does not constitute justification for rehearing of the matter,

Based upon the foregoing, the request for rehearing is denied. Appellant's request for additional time in which to submit material for reconsideration is also denied for the reasons stated above.

MOTION FOR RECONSIDERATION
Appeal of Paul E. Lavoie
Department of Safety

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


George R. Cushman, Jr., Member

DATED: May 10, 1989

cc: Ann Spear, SEA Field Representative
Edwin J. Goodrich, Human Resource Coordinator
Dept. of Safety
Virginia A. Vogel, Director of Personnel