

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### APPEAL OF MARK W. MACDONALD Docket #89-0-18

By letter dated July 24, 1989, SEA Field Representative Stephen J. McCormack filed an appeal on behalf of Mark W. MacDonald, an employee of the New Hampshire Department of Corrections. In his letter of appeal, Appellant alleges that he has been improperly compensated in his position of Probation Parole Officer for the Division of Field Services. Attached to the letter of appeal were copies of correspondence between the Division of Personnel, the State Employees' Association and the Department of Corrections.

On August 21, 1989, the Division of Personnel filed a Motion to Dismiss, stating, "On November 15, 1988, the Department of Corrections requested of this office the authority to 'pay Mr. MacDonald at one additional pay increment on the Labor Grade 21 salary scale'... The Division of Personnel responded on November 30, 1988, by letter to Thomas K. Tarr, Director of the Division of Field Services, denying that request. A timely appeal of that decision must have been taken to the Personnel Appeals Board within fifteen calendar days of the date of that decision, or not later than December 15, 1988."

In the July 24, 1989 letter of appeal, Mr. McCormack argued, "Ms. Vogel will undoubtedly contend that this issue ought to be dismissed, but the State Employees' Association contends that Mr. MacDonald must have a hearing on this matter because ... Mr. MacDonald has been affected by an adverse action. As such he is entitled to a hearing before the Personnel Appeals Board. ... The action giving rise to this appeal is the fact that Mr. MacDonald is being improperly paid. Each and every payday Mr. MacDonald receives improper pay, gives rise to an appeal. ..."

Appellant's representative has raised this issue in several other appeals and requests for reconsideration of the Board's decisions. The Board again finds this to be an argument without merit. The plain language of the statute provides that an appeal must be taken "...within 15 calendar days of the action giving rise to the appeal..". (RSA 21-I:58, I.) It is obvious that any decision or action taken will potentially have a long-term effect and/or cumulative effect. Were the Board to accept or adopt Appellant's reasoning, the statutory parameters for timely filing of an appeal would be meaningless.

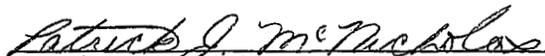
APPEAL OF MARK W. MACDONALD

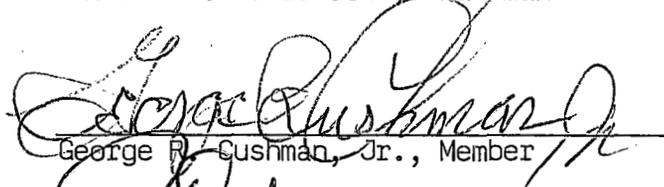
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The action from which this appeal arises is the November 30, 1988 decision of the Director of Personnel which stated, "Probation Parole Officers may only be promoted once they meet the minimum qualifications. . . . Although it is unfortunate that Mr. MacDonald qualified subsequent to his increment date, ■ an sure he received his increment at the former grade. His promotion [from Probation Parole Officer II to Probation Parole Officer III] should have been processed based upon the September 1, increment. If it wasn't then the appropriate paperwork should be initiated."

Neither the June 27, 1989 appeal to the Director, nor the July 24, 1989 appeal to the Board of the Director's November 30, 1988 decision is timely within the language of RSA 21-I:58, ■. Accordingly, the Board voted unanimously to dismiss Mr. MacDonald's appeal as untimely.

THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas, Chairman

  
George R. Cushman, Jr., Member

  
Peter C. Scott, Alternate

cc: Stephen J. McCormack, SEA Field Representative  
Thomas K. Tarr, Director of Field Services, Department of Corrections  
Virginia A. Vogel, Director of Personnel

DATED: September 25, 1989