

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### *Appeal of Mark Mitchell*

*Docket #98-O-1*

*Division of State Police*

Thursday, October 23, 1997

The New Hampshire Personnel Appeals Board (Rule, Johnson and Wood) met on Wednesday, August 13, 1997, under the authority of RSA 21-1, to review the appellant's response to the Board's September 4, 1997, order in which he was directed to show cause why his appeal, under the provisions of the Rules of the Division of Personnel, should not be dismissed as an untimely appeal of a reclassification which occurred in February, 1997. The appellant responded by letter dated September 11, 1997, asserting that the letter he received from the Director of State Police outlining the reorganization was mailed via US Mail and received at his residence on or about March 17, 1997, thereby precluding him from filing a timely appeal within fifteen days of the February 28, 1997, reclassification date. He also argued that the letter did not state when the reorganization was scheduled to take effect, and did not "set forth a plan to demote some existing corporals from their [sic] current rank." Mr. Mitchell argued that after the February 28, 1997, reorganization date, he continued to receive mail from State Police Headquarters addressed to him as "Corporal," thereby persuading him that he was not demoted in the reorganization.

After considering Mr. Mitchell's appeal, the Board finds:

1. the definition of "demotion" under Per 101.20 is controlling and that under this definition, the appellant was not demoted;
2. the reorganization plan for the Division of state Police as approved by the Director of Personnel on February 28, 1997;

3. the letter defining the reorganization (Appellant's Exhibit A) indicated that "10 year Corporal" incumbents would be reclassified to Trooper II;
4. the effective date of the change in classification was the first day of the pay period immediately following the date of approval of the reclassification by the Director of Personnel on February 28, 1997, Per 303.04 (h) and Per 303.05 (a);
5. an employee who is not satisfied with the Director's decision may appeal that decision within 15 days of the date of the Director's decision; Per 304.02 (a); and
6. the appellant's written request for reconsideration was filed on June 15, 1997.

In light of the above findings, the Board dismisses Mark Mitchell's appeal of his reclassification as untimely.

THE PERSONNEL APPEALS BOARD



---

Lisa A. Rule, Acting Chairman



---

Robert J. Johnson, Commissioner



---

Patrick H. Wood, Commissioner

cc: Virginia A. Lamberton, Director of Personnel, 25 Capitol St., Concord, NH 03301  
Mark Mitchell, NH State Police Barracks, 315 Calef Highway, Epping, NH 03042  
Col. John Barthelmes, Director, NH Division of State Police, Hazen Drive  
Concord, NH 03305

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### *Appeal of Mark Mitchell*

*Docket #98-O-1*

*Division of State Police*

*September 4, 1997*

The New Hampshire Personnel Appeals Board (Rule, Johnson and Wood) met on Wednesday, August 13, 1997, under the authority of RSA 21-I, to consider the July 7, 1997, appeal of Mark Mitchell, an employee of the Department of Safety, Division of State Police. Mr. Mitchell alleged that he was demoted from the rank of State Police Corporal to Trooper First Class as a result of a reclassification that occurred on February 28, 1997. He alleged that at the time, Corporals were separated into two distinct classes, those who would retain the title "Corporal" and whose positions would be upgraded from salary grade 19 to salary grade 20, and those who would be reclassified from Corporal to Trooper First Class without any increase in compensation.

Mr. Mitchell alleged that some time after February 28, 1997, he discovered that there were Corporals being compensated at salary grade 20. He argued that he then attempted to resolve the reclassification issue through the procedures for informal settlement. Mr. Mitchell argued that while Per 101.20 of the Rules of the Division of Personnel defines demotion as "a transfer of an employee from one position to another position having a lower salary grade," Webster's Collegiate Dictionary defines demotion as "to reduce to a lesser grade or rank."

After considering Mr. Mitchell's appeal, the Board voted to order the appellant to show cause why his appeal, under the provisions of the Rules of the Division of Personnel, should not be dismissed as an untimely appeal of a reclassification which occurred in February, 1997. RSA 21-I:57 clearly provides that an employee, department head or both dissatisfied with a classification decision of the

Director may appeal that decision within fifteen calendar days to the Personnel Appeals Board. Neither the statutes, the Rules of the Personnel Appeals Board nor the Rules of the Division of Personnel provide for informal settlement of classification decisions. Even if the Board were to accept the appellant's assertion that he first learned of the reclassification decision by letter dated March 14, 1997, signed by Col. Barthelmes, his June 15, 1997, letter to the Director of Personnel would have been an untimely request for reconsideration of the classification decision detailed therein.

The appellant shall have ten days in which to file his response. A copy of that response, along with all supporting documentation, shall also be forwarded simultaneously to the Director of the Division of Personnel. Failure to respond within the time specified shall result in the immediate dismissal of Mr. Mitchell's appeal.

THE PERSONNEL APPEALS BOARD



\_\_\_\_\_  
Lisa A. Rule, Acting Chairman



\_\_\_\_\_  
Robert J. Johnson, Commissioner



\_\_\_\_\_  
Patrick H. Wood, Commissioner

cc: Virginia A. Larnberton, Director of Personnel, 25 Capitol St., Concord, NH 03301  
Mark Mitchell, NH State Police Troop A Barracks, 315 Calef Highway, Epping, NH 03042  
Col. John Barthelmes, Director, NH Division of State Police, Hazen Drive  
Concord, NH 03305