

State of New Hampshire

WPPID570



PERSONNEL APPEALS BOARD

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

Appeal of Paula DeLisi - Response to Motion for Reconsideration

Docket #90-L-4
August 13, 1990

The New Hampshire Personnel Appeals Board (Bennett, Johnson and Cushman) met Wednesday, July 11, 1990, to review Ms. DeLisi's June 1, 1990 response to the Board's May 17, 1990 order in her appeal of lay-off from the Division of Human services. Upon consideration of the information provided by the appellant, the Board voted to affirm its earlier order, dismissing Ms. DeLisi's appeal.

As Appellant indicated in her response to the Board's order, she had been employed as a Word Processing Operations Supervisor, salary grade 15, and as she did not have five years of continuous full-time service at the time of lay-off, she did not have bumping rights. Although there were employees with less seniority in her department, none were employed in her same classification and Ms DeLisi could not, therefore, be "considered with other employees in the same class in accordance with their seniority, . ." as provided by Per 308.05(a). Based upon the foregoing, the Board determined that Appellant failed to provide grounds upon which to determine that its earlier order was either unlawful or unreasonable.

THE PERSONNEL APPEALS BOARD

Handwritten signature of Mark J. Bennett in cursive.

Mark J. Bennett, Acting Chairman

Handwritten signature of George R. Cushman, Jr. in cursive.

George R. Cushman, Jr.

Handwritten signature of Robert J. Johnson in cursive.

Robert J. Johnson

cc: Jan D . Beachesne, Human Resource Coordinator, C.O.M.B./H.H.S.
Virginia A. Vogel, Director of Personnel
Civil Bureau, Office of the Attorney General

Appeal of Paula DeLisi - Response to Motion for Reconsideration

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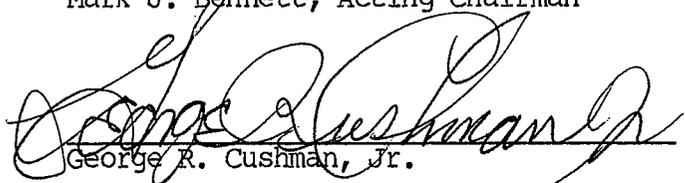
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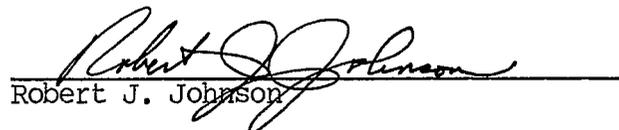
THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



George R. Cushman, Jr.



Robert J. Johnson

cc: Jan D. Beuchesne, Human Resource Coordinator, C.O.M.B./H.H.S.
Virginia A. Vogel, Director of Personnel
Civil Bureau, Office of the Attorney General

State of New Hampshire

WPPID535



1990-L-004

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

APPEAL OF PAULA DELISI
Docket #90-L-4
Lay-Off (Division of Human Services)

May 17, 1990

The New Hampshire Personnel Appeals Board (Bennett, Cushman and Johnson) met Wednesday, April 25, 1990 to review the April 5, 1990 hearing request filed by Paula DeLisi to appeal her lay-off from the Commissioner's Office of Management and Budget, Department of Health and Human Services. In her appeal, Ms. DeLisi argued that were seniority solely the basis for the lay-off decision, other employees in the Commissioner's Office of Management and Budget should have been laid-off before her. She further argues that she told the department that "there are eight Computer Program Analyst II's in my department and two of them were under five years and both have less time than I".

The Board found this information insufficient to support an allegation that the Department of Health and Human Services improperly applied the Rules of the Division of Personnel in determining which positions and incumbents were to be subject to lay-off. Appellant did not disclose the following information for the Board's consideration:

1. Appellant's title and salary grade at the time of lay-off.
2. Appellant's seniority date.
3. Position titles and salary grades of positions to which Appellant referred as having less seniority than she.
4. A statement of why the action from which the appeal arises was inappropriate or unjust under the provisions of the Rules of the Division of Personnel.

Per 308.05 (a) of the Rules of the Division of Personnel provides, in pertinent part:

"Whenever there is to be a layoff, the appointing authority shall first determine the class or classes to be affected in his department. Each employee whose position is in an affected class shall be considered with other employees in the same class in accordance with their seniority..."

Per 308.05 (b) also provides as follows:

"Except for very infrequent instances of outstanding ability, seniority will govern the order of layoff for employees having 5 or more years of state service. Employees having less than 5 years of service shall be laid off generally on the basis of ability."

Without knowing which class or classes of positions were affected by the lay-off and Appellant's seniority within the affected classes in the department, the Board must assume that the decision to lay her off from her position was legally accomplished under the terms of Per 308.05 (b): "...Employees having less than 5 years of service shall be laid off generally on the basis of ability."

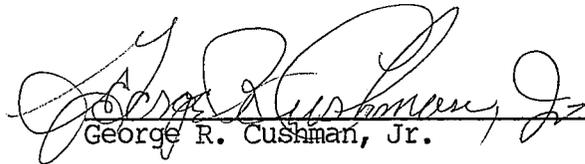
Based upon the foregoing, the Board voted to dismiss Ms. DeLisi's appeal. Pursuant to the provisions of Per-A 204.06 (a) and (b) of the Rules of the Personnel Appeals Board, any motion for rehearing must be received by the Board within twenty (20) calendar days of the date of this order.

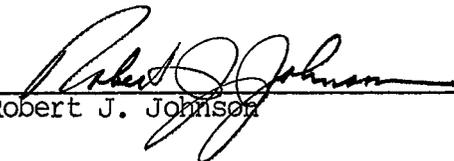
Per-A 204.06 Rehearings.

- (a) Within twenty (20) days after the date of notice of any order or decision of the Board, any party to the action or proceeding before the Board or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order. Such request shall be received by the Board within the twenty-day period.
- (b) Such motion for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.

THE PERSONNEL APPEALS BOARD

Mark J. Bennett, Acting Chairman


George R. Cushman, Jr.


Robert J. Johnson

cc: Paula DeLisi
RFD #10 Box 153
Concord, New Hampshire 03301
Jan D. Beauchesne, Human Resource Coordinator
Virginia A. Vogel, Director of Personnel
David S. Peck, Assistant Attorney General, Civil Bureau