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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Art Eng,  
Department of Labor and Workforce  
Development

CSC Docket No. 2015-3035

Classification Appeal

ISSUED: NOV 23 2015 (LDH)

Art Eng appeals the attached decision of the Division of Agency Services (DAS) that the proper classification of his position with the Department of Labor and Workforce Development is Administrative Analyst 2. Eng seeks an Administrative Analyst 1 classification.

The record in the present matter establishes that Eng is currently serving in the permanent title of Administrative Analyst 2. Eng's position is located in the Division of Employer Accounts, Department of Labor and Workforce Development. Eng pursued the matter of his classification with DAS. He was asked to complete a Position Classification Questionnaire (PCQ) and all documentation supplied by Eng, including his most recent Performance Assessment Review (PAR), was reviewed. Subsequently, DAS performed an audit of his position. DAS found that the duties and responsibilities of Eng's position entailed: reviewing and monitoring the Division's compliance with the United States Department of Labor's (USDOL) Tax Performance System and the Manual of Practices and Procedures; completing the annual program review findings of field audits; preparing corrective action plan pertaining to cited audit errors and failures and update audit procedures as needed; researching and analyzing proposed New Jersey legislation affecting the Division of Employer Accounts, the New Jersey Unemployment Compensation Law and the Administrative Code; presenting analyses, fiscal notes and justifications to the Director; researching and addressing Unemployment Compensation Law and administrative code to answer complaints and questions; and providing a written

explanation to employers and/or their representatives. Additionally, it was noted that since the Administrative Analyst 1 title was assigned to the "R" bargaining unit, it was considered a primary or first-level supervisory title. However, DAS found that Eng had no supervisory responsibilities. In its March 24, 2015 decision, and based on a review of Eng's duties, DAS determined that the duties performed by Eng were consistent with the definition and examples of work included in the job specification for Administrative Analyst 2.

In his May 9, 2015 appeal to the Civil Service Commission (Commission), Eng argues that his duties and responsibilities are more consistent with the title of Administrative Analyst 1. Eng argues that despite DAS's statements to the contrary, the job specification for Administrative Analyst 1 does not require an individual serving in that title to perform supervisory duties. He also disputes that the title is in the "R" bargaining unit.<sup>1</sup> Moreover, he asserts that other postings for the position of Administrative Analyst 1 do not indicate that supervisory duties will be required and an incumbent in the title does not perform any supervisory duties. He also asserts that he performs complex duties that were not addressed in DAS's determination letter such as that he prepares fiscal notes and recommendations related to any financial impact legislation may have on his division's operations. Moreover, Eng contends that he is the Open Public Records Act custodian for the Division of Employer accounts, and as such, he provides research and analysis to written inquiries from the general public. In support, he submits, *inter alia*, job vacancy announcements for the title of Administrative Analyst 1.

### CONCLUSION

Initially, *N.J.A.C.* 4A:3-3.9 states, in pertinent part, that a classification appeal shall be submitted in writing within 20 days of receipt of the decision letter. Although Eng presents a substantive challenge to DAS's determination, the controlling issue in this matter is whether his appeal was timely filed. As an initial matter, DAS's determination letter was dated March 24, 2015. However, Eng's appeal was not postmarked until May 9, 2015, 45 days later. Additionally, despite a request to do so, Eng did not address the timeliness of his appeal. The purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the delay in filing the appeal unreasonably exceeds that threshold of finality. Thus, it is clear that the Eng's appeal is untimely.

Nor is there any basis in this particular case to extend or to relax the time for appeal. See *N.J.A.C.* 4A:1-1.2(c) (the Civil Service Commission (Commission) has

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<sup>1</sup> Eng maintains that DAS noted the Administrative Analyst 1 title as (29, R29, 50076), and since only one number included the letter "R" the title is not required to supervise. However, only "R29," refers to the bargaining unit for the title. The other two numbers listed are the class code and the title code.

the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting the right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing "good cause" in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com'n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 *N.J.* 145 (1982). See e.g., *Matter of Allen*, 262 *N.J. Super.* 438 (App. Div. 1993) (allowing relaxation of the Board's appeal rules where police officer repeatedly, but unsuccessfully, sought clarification of his employment status). In this case, Eng has failed to address the issue of the untimeliness of his appeal, and thus he has failed to show good cause to justify relaxing the requirements of *N.J.A.C.* 4A:4-6.6(a)1. However, notwithstanding the timeliness of Eng's appeal, the Commission will address the substantive issues he raises.

The definition section of the job specification for Administrative Analyst 2 states:

Under general supervision of an Administrative Analyst 1 or other supervisor in a state department, institution, or agency, performs the review, analysis, and appraisal of current department administrative procedures, organization, and performance and helps to prepare recommendations for changes and/or revisions; does other related duties.

The definition section of the job specification for Administrative Analyst 1 states:

Under supervision of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises staff involved with review, analysis, and appraisal of current department administrative procedures, organization, and performance, and prepares recommendations for changes and/or revision therein; does other related duties as required.

In the instant matter, DAS appropriately found that Eng's position was properly classified as an Administrative Analyst 2. While the definition of Administrative Analyst 1 provided above is not the paragon of clarity, it is clear that the title is at the supervisory level. In this regard, in addition to the inclusion of such language in the definition, several examples of work listed in the job specification confirm that individuals in this title function as supervisors. For example, and most illustrative, one example of work in the job specification states that an incumbent: "Plans, organizes, and assigns work of the organizational unit

and evaluates employee performance and conduct, enabling the effective recommendation of the hiring, firing, promoting, and disciplining of subordinates.” As discussed below, the inclusion of this duty alone transforms a title to supervisory in nature.

Further evidence that the Administrative Analyst 1 title is at the supervisory level is its inclusion in the “R” Employee Relations Group (ERG). In this respect, titles are assigned to ERGs based on the classification of the position by this agency. See *N.J.S.A. 11A:3-1*. Each ERG is distinctly defined, and the “R” ERG is defined as those titles used in the primary or first level of supervision. See *In the Matter of Alan Handler, et al.* (CSC, decided October 7, 2015) (Commission found that Auditor 1 was a supervisory level title based on job definition, duties and inclusion in the “R” ERG).

Moreover, when a title is supervisory in nature, the Commission has found that, along with the myriad of other supervisory duties that must be performed, the essential component of supervision is the responsibility for formal performance evaluation of subordinate staff. See *In the Matter of Timothy Teel* (MSB, decided November 8, 2001). As such, in order to be classified at the level of Administrative Analyst 1, an incumbent must supervise subordinate staff, including having the responsibility for performing formal performance evaluations. Merely making recommendations regarding a subordinate’s performance, or even assisting in the preparation of a performance evaluation is not sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate’s supervisor. A review of the record does not establish that Eng performs such duties.

Regarding Eng’s argument that an incumbent Administrative Analyst 1 does not supervise subordinate staff or complete employee PARs, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. See *In the Matter of Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998), affirming *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). See also, *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Eng’s argument that the job postings for the subject position do not indicate that supervision is required is unpersuasive. Classification reviews are based on a review of current duties with the proposed title’s job specification. Eng’s current duties do not match the duties and responsibilities required for the subject title. A thorough review of the entire record fails to establish that Eng has presented a sufficient basis to warrant an Administrative Analyst 1 classification of his position.

One final comment is warranted. There appears to be significant confusion regarding the Administrative Analyst 1 job specification. In this regard, the

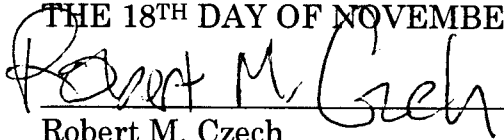
Commission notes that DAS has indicated that it is undertaking an analysis of all job specifications for titles that are in the "R" ERG.

**ORDER**

Therefore, the Civil Service Commission concludes that the proper classification of Art Eng's position is Administrative Analyst 2.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 18<sup>TH</sup> DAY OF NOVEMBER, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: Art Eng  
Kenneth Connolly  
Mary Fitzgerald  
Joseph Gambino



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF AGENCY SERVICES  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

March 24, 2015

Art Eng



**Re: Classification Appeal – Administrative Analyst 2 (P26), Position #939554,  
CPM Log # [REDACTED] EID # [REDACTED]**

Dear Mr. Eng:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation submitted by you, your immediate supervisor, Stanley Davis, and your Appointing Authority during the review process.

Issue:

You are serving permanently in the title, Administrative Analyst 2 (26, P26, 50075) and contend you are performing duties and responsibilities commensurate with the title, Administrative Analyst 1 (29, R29, 50076).

Organization:

Your position is assigned to the Division of Employer Accounts of the Department of Labor and Workforce Development. You report directly to Stanley Davis, Senior Executive Service (98, M98, 92752). Your position is assigned no supervisory responsibilities.

Findings of Fact:

The primary functions of your position are to review and monitor the Division's compliance with the United States Department of Labor's (USDOL) Tax Performance System and to review, analyze, and evaluate administrative practices and operational methods.

You perform the following assigned duties and responsibilities:

- Review and monitor the Division's compliance with the United States Department of Labor's (USDOL) Tax Performance System and the Manual of Practices and Procedures.

- Complete the Annual Program Review Findings of field audits. Prepare Corrective Action Plan (CAP) pertaining to cited audit errors and failures and update audit procedures as needed.
- Research and analyze proposed New Jersey legislation affecting the Division of Employer Accounts, the New Jersey Unemployment Compensation Law and the Administrative Code. Present analyses, fiscal notes and justifications to the Director.
- Research and address Unemployment Compensation Law and Administrative Code to answer complaints and questions. Provide a written explanation to employers and/or their representative(s).

Review and Analysis:

Currently your position is classified in the title, Administrative Analyst 2 (26, P26, 50075). The definition section of the job specification for the title, Administrative Analyst 2, states:

“Under general supervision of an Administrative Analyst 1 or other supervisor in a state department, institution, or agency, performs the review, analysis, and appraisal of current department administrative procedures, organization, and performance and helps to prepare recommendations for changes and/or revisions; does other related duties.”

The definition section of the job specification for the title, Administrative Analyst 1 (29, R29, 50076), states:

“Under supervision of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises staff involved with review, analysis, and appraisal of current department administrative procedures, organization, and performance, and prepares recommendations for changes and/or revision therein; does other related duties as required.”

An incumbent properly classified in this title performs duties and responsibilities primarily focused on providing assignments, instruction, and supervision to staff. The title, Administrative Analyst 1, is assigned to the “R” bargaining unit and is considered a first level supervisor. A first level supervisor is required to supervise lower level employees and/or an organizational unit. Your position does not have the authority to regularly supervise incumbents and work operations, nor to complete Performance Evaluations, or approve leaves of absence and time sheets. Therefore, you are not working in the capacity or at the level of a first line supervisor. The review of the information obtained during the classification process does not indicate this position performs tasks commensurate with the title, Administrative Analyst 1.

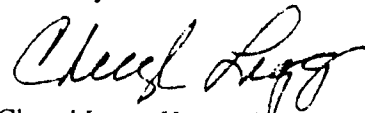
A review of the job duties and responsibilities assigned to your position revealed your position reviews and monitors the Division’s compliance with the United States Department of Labor’s (USDOL) Tax Performance System and the Manual of Practices and Procedures. Your position is tasked with completing the Annual Program Review Findings of field audits and preparing a Corrective Action Plan (CAP). In addition, your position is responsible for researching and analyzing proposed New Jersey legislation affecting the Division of Employer Accounts, New Jersey Unemployment Compensation Law and Administrative Code. The duties and responsibilities assigned to your position are consistent with those assigned to the title, Administrative Analyst 2.

Determination:

Based upon the findings of fact cited above, it is my determination that the assigned duties and responsibilities performed by this position are consistent with the title, **Administrative Analyst 2 (26, P26, 50075)**; therefore, your position is appropriately classified.

Please be advised that in accordance with *N.J.A.C. 4A:3-3.9*, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to: Written Record Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Cheryl Legg, Human Resource Consultant  
Division of Agency Services

CL/SLR

Cc: Mary Fitzgerald