



**FINAL ADMINISTRATIVE  
ACTION OF THE  
CIVIL SERVICE COMMISSION**

## Layoff Appeal

DPF-439 \* Revised 7/95

are in the same class code (20). According to *N.J.A.C. 4A:8-2.2(f)*, **demotional** rights may extend beyond the employee's demotional title rights to include any title previously held on a permanent basis within current continuous service. These rights are not provided for a lateral move. The "General Guide to State Employment Layoffs" was made available to employees for reference and it explained the layoff procedure. Page 11 of this guide indicates that, "Prior held title rights are demotional rights to any title which you previously held on a permanent basis within your current continuous service which has a lower class code than your current permanent title." It also states that "there are no lateral rights to previously held permanent titles." The appellant was informed that she had no right to displace permanent incumbents in the title Social Worker 1 Psychiatric as her regular appointment is in the same class code. That she may not have been informed of *N.J.A.C. 4A:8-2.2(f)* when she transferred does not negate the application of the rule, and she was advised that it was a lateral transfer.

The appellant had not provided information regarding a classification appeal for her Social Worker 1 position; nevertheless, she was informed that classification issues were not reviewable in the context of a layoff rights appeal, and that layoff rights are based on the employee's permanent title at the time of the layoff. Regarding examinations, the appellant was informed that the title Psychiatric Social Worker is for use in local governments only, and her standing on a certification for this title has no bearing on her State layoff title rights.

The appellant responded that she should be given the "same and equal opportunity" as the Social Worker 1 who displaced her. She states that she could have laterally moved into a position of Social Worker 1, Psychiatric as she is currently on an eligible list for Psychiatric Social Worker, and because she was a Social Worker 1. Additionally, she maintains that she was told by Human Resources at the Woodbridge Developmental Center at the time of layoff that "I could not go to Trenton Psychiatric or the Special Treatment Unit because I was not in the same class code." She states that she is confused by this if she has no lateral rights to previously held permanent titles. Next, the appellant argues that the appearance of her name on an eligible list for an examination for Psychiatric Social Worker (C0367R), Middlesex County, should have been considered in the determination of her State layoff title rights. Also, the appellant states that she was initially given incorrect information regarding completing her Declaration form, which provided information such as what the employee would accept as a layoff right, preference in location, number of working hours and re-employment rights.

## CONCLUSION

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in

determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. *See Malone v. Fender*, 80 N.J. 129 (1979). In this case, Ms. Williams is not entitled to the "same and equal opportunity" as the individual Social Worker 1 who displaced her, as that individual has more seniority. Ms. Williams has 3 years, 8 months and 16 days of seniority, while the individual who displaced her has 8 years, 9 months and 4 days of seniority as of the effective date of the layoff.

Also, in Section F of her Declaration form, the appellant listed preferences for lateral movements to the title Social Worker 1, Psychiatric in Middlesex and Mercer Counties. The Social Worker 1 title had lateral rights to Social Worker 1 Developmental Disabilities and Social Worker 1 Corrections, and demotional rights to Social Worker 2 and Social Worker 2 Corrections. Whether or not the appellant received assistance with regard to this information, the Social Worker 1 title does not have lateral rights to the Social Worker 1, Psychiatric title and, as explained above, employees have no rights to laterally displace other employees in prior-held titles. Prior-held title rights are solely given for demotions. Even if she received incorrect instructions, an administrative error can be corrected at any time and no vested or other rights are accorded by an administrative error. *See Cipriano v. Department of Civil Service*, 151 N.J. Super. 86 (App. Div. 1977). In no instance can the appellant laterally displace another employee based on a prior-held title.

The appellant states that she was told that she could not go to Trenton Psychiatric Hospital or the Special Treatment Unit because she was not in the same class code. It is unclear what the appellant heard in her interview; however, she would have been told that she could not laterally displace someone in a prior-held title. The layoff team consisted of Department of Human Services Human Resource personnel, a Civil Service Commission representative, and a union representative. It is highly unlikely that incorrect information would have been given to her in the final interview.

Examination issues have no bearing on the determination of State title rights. In this case, the appellant applied for and passed an examination for a local title, Psychiatric Social Worker. The appellant states that she was told there were six positions for Psychiatric Social Worker in Middlesex County. It cannot be explained how someone would have told her this given that the Psychiatric Social Worker title is only used in local jurisdictions and is not in use for the State. The local jurisdiction of Middlesex County is a separate and independent employer than

the Department of Human Services, which has facilities in Middlesex County. The appellant's arguments in this regard are immaterial.

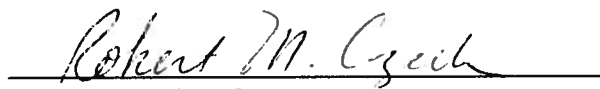
Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met her burden of proof in this matter.

**ORDER**

Therefore, it is ordered that this appeal be denied.

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 13<sup>th</sup> DAY OF AUGUST, 2014



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

c: Toni Williams  
Barbara Maticic  
Christina Mongon  
Kenneth Connolly  
Joseph Gambino