

B-666



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matters of Vanessa Bloor,
Department of Transportation

Classification Appeal
Reprisal Appeal

CSC Docket Nos. 2016-1629 and
2016-1866

ISSUED: ~~NOV 30 2016~~ (HS)

Vanessa Bloor appeals the attached determination of the Division of Agency Services (Agency Services) that her position with the Department of Transportation (DOT) was properly classified as a Secretarial Assistant 3 (Non-Stenographic). The appellant also petitions the Civil Service Commission (Commission) for relief, pursuant to *N.J.S.A. 11A:2-24* and *N.J.A.C. 4A:2-5.1*, from alleged reprisal from her employer. These appeals have been consolidated herein.

By way of background, in June 2015 the appellant requested a classification review of her former position as a Secretarial Assistant 3 (Non-Stenographic) located in the Employee Relations Unit, Division of Human Resources, DOT.¹ The appellant sought an Administrative Assistant 3 classification. Agency Services received the request and performed a review of all submitted information, including a Position Classification Questionnaire (PCQ). In its decision, Agency Services noted that the appellant was supervised by a Manager 2, Human Resources and did not possess supervisory responsibility. Agency Services' review also found that the appellant: acted as a principal assistant to the Manager 2, Human Resources on administrative matters that included maintaining the manager's schedule; scheduling appointments and handling phone and walk-in inquiries; maintaining the disciplinary and grievance databases as well as typing and disseminating all notices associated with those processes; verifying information entered into the

¹ It is noted that the appellant received a regular appointment to the title of Secretarial Assistant 2 (Non-Stenographic), in the Division of Transportation Systems Management, DOT, effective January 7, 2016.

Disciplinary Action System, which included entering new information and uploading pertinent case documents (scans, names, uploads); logging incoming documents into the investigative database, hearings spreadsheet and/or ARB table; gathering background information on employees prior to issuance of disciplinary actions by researching investigative history and alternate employee files (not discipline related) as well as searching for past written notices for misconduct and/or attendance-related warnings; and acting as a liaison with other organizational units such as the Time Management Unit, which included following up on informational requests from management in various divisions within DOT for suspensions, scheduling employee releases for union activity and providing copies of served notices of disciplinary actions. Agency Services further noted that although the title of Manager 2, Human Resources is not equivalent to a head of a Bureau or Service, it is entitled to utilize the title of Secretarial Assistant 3 (Non-Stenographic) in accordance with established classification standards. Based on the foregoing, Agency Services found that the appellant's assigned duties and responsibilities were commensurate with the title of Secretarial Assistant 3 (Non-Stenographic).

On appeal to the Commission, the appellant alleges that the duties she presented on her PCQ were assigned to her in retaliation for requesting an extension to her furlough on September 11, 2014 to care for her very young daughter, who would only breastfeed. Specifically, the appellant states that her former supervisor signed off on her furlough extension request on October 16, 2014, and her increased workload was "devised and laid out" at staff meetings on October 27 and 28, 2014. The appellant claims that other staff members were effectively relieved of their duties, taxing the appellant to the point where her milk production decreased, she was not permitted a break in order to pump and boost her supply, and her baby lost three pounds as a result. The appellant questions what the responsibilities of the other staff were since she was assigned the majority of the work in the office as well as new tasks created by her former supervisor, including changing file colors in filing cabinets while simultaneously preparing dated documents such as disciplines with already-assigned suspension dates. She maintains that the tasks were performed without a Performance Assessment Review (PAR) and while on approved half days.

The appellant further states that on January 12, 2015, she requested intermittent furlough because her husband's imminent deployment created a hardship on her small family. The appellant states that she mentioned this situation to her former supervisor and the Director of Human Resources in a meeting on December 17, 2014 and she prepared her request based on the finalized date her husband received in his official orders. The appellant states that her former supervisor crossed out the intermittent dates requested by the appellant²

² It is noted that on the copy of the January 12, 2015 intermittent furlough application submitted by the appellant, half of the requested dates are crossed out.

and noted that she had spoken with the appellant prior to actually letting the appellant know that the paperwork had been modified. The appellant states that she was overstressed, primarily from work, and the appellant repeatedly notified her former supervisor and the Director of Human Resources that another employee was harassing her by yelling and throwing files. As a result, the appellant was forced to take a leave of absence during a portion of her husband's deployment. The appellant states that upon her return, her former supervisor told her that she was not permitted to handle any further disciplinary work.

Therefore, the appellant requests that the classification of her former position in the Division of Human Resources be revisited since it was backfilled with a Personnel Aide rather than a Secretarial Assistant 3 (Non-Stenographic). She also states that her duties should be considered against the duties of other staff in the office. In support, the appellant submits, among other documents, her PCQ; her September 11, 2014 furlough extension application; the meeting notes for the staff meetings held on October 27 and 28, 2014; and her January 12, 2015 intermittent furlough application.

In response, the appointing authority maintains that the appellant was not given any duties that were inconsistent with the title of Secretarial Assistant 3.

CONCLUSION

The definition section of the job specification for Administrative Assistant 3 states:

Assists the head of a Bureau or Service in a State department, institution or agency by performing and coordinating administrative support services; does other related work.

The definition section of the job specification for Secretarial Assistant 3 (Non-Stenographic) states:

May be assigned as a secretary to Assistant Division Directors, Bureau Chiefs or their organizational equivalents; does other related duties.

In the instant matter, Agency Services appropriately found that the appellant's position was classified by the title of Secretarial Assistant 3 (Non-Stenographic). The preponderance of the appellant's duties as determined by Agency Services consisted of secretarial support. In this regard, her primary duties included: acting as a principal assistant to the Manager 2, Human Resources on administrative matters such as maintaining the manager's schedule, scheduling appointments and handling phone and walk-in inquiries; maintaining databases and typing and disseminating associated notices; verifying information entered,

including entering new information and uploading pertinent case documents; logging incoming documents; gathering background information on employees by researching investigative history and alternate employee files and searching for past written notices for misconduct or attendance-related warnings; and acting as a liaison with other organizational units, which included following up on informational requests from management in various divisions within DOT for suspensions, scheduling employee releases for union activity and providing copies of served notices of disciplinary actions. Examples of work for the title of Secretarial Assistant 3 (Non-Stenographic) include: organizing assigned secretarial and administrative clerical work and developing effective work methods; typing and/or supervising the typing of correspondence, reports and recommendations of a confidential nature; reviewing, sorting and routing incoming correspondence; obtaining pertinent materials from the files and from other sources and putting it into usable form for the review and use of the executive officer; acting to relieve the executive officer of detail by providing information to those requesting it including division personnel, representatives of State, local and other groups, organizations, agencies and to the general public in accord with established policy; maintaining a schedule of appointments and the daily engagement calendar of the executive; and making necessary arrangements for speaking engagements, travel arrangements and for hearings, conferences and meetings. As such, the appellant's primary duties were commensurate with the duties of a Secretarial Assistant 3 (Non-Stenographic).

It is noted that the professional level Administrative Assistant 3 title is used to classify those positions assigned to assist the head of a Bureau or Service in a State department, institution or agency by performing and coordinating administrative support services. As noted by Agency Services in its determination, the Administrative Assistant serves to coordinate support services to ensure the availability and efficient use of resources needed to accomplish the goals of the unit. As the appellant did not primarily perform the duties of Administrative Assistant, an Administrative Assistant 3 classification was not warranted. Although the appellant adds that her duties should be considered against the duties of other staff, a classification appeal cannot be based on a comparison to the duties of another position. *See In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Based on the foregoing, there is no basis in the record to disturb Agency Services' classification determination.

Turning to the appellant's claims of retaliation, *N.J.A.C. 4A:2-5.1* generally provides that an appointing authority shall not take or threaten to take any reprisal action against employees in retaliation for an employee's lawful disclosure of information on the violation of any law or rule, governmental mismanagement or abuse of authority or on the employee's permissible political activities or affiliations. *See also, N.J.S.A. 11A:2-24*. In *Katherine Bergmann v. Warren County Prosecutor*, Docket No. A-5665-01T5 (App. Div. December 1, 2004), it was determined that an

employee asserting a cause of action under *N.J.S.A.* 11A:2-24 is required to prove the following elements:

- 1) The employee “reasonably believed” in the integrity of the disclosure at the time it was made, meaning the employee had no reasonable basis to question the substantive truth or accuracy of the content of the disclosure just prior to communication (it is here that the term “reasonable belief” is borrowed from the Conscientious Employee Protection Act (CEPA), *N.J.S.A.* 34:19-1, *et seq.*, to define what is the substantive content of a “lawful disclosure”);
- 2) The employee disclosed the information to a source “reasonably” deemed an appropriate recipient of such information just prior to communication (here, the term “reasonably” is used to describe the perceived proper channels through which a “lawful disclosure” should be communicated);
- 3) There is a connection, or nexus, between the disclosure and the complained of action (this is a standard cause-and-effect showing by the employee). *Carlino v. Gloucester City High School*, 57 *F. Supp. 2d* 1, 35 (D.N.J. 1999); *Kolb v. Burns*, 320 *N.J. Super.* 467, 476 (App. Div. 1999).

Only after the employee satisfies the criteria above does the appointing authority bear the burden of showing that the action taken was not retaliatory. *See Wright Line*, 251 *NLRB* 1083 (1980); *Mount Healthy City School District Bd. of Educ. v. Doyle*, 429 *U.S.* 274 (1977).

Using the test as enumerated above, the appellant has failed to present a *prima facie* case of reprisal. The appellant essentially claims that her furlough requests triggered retaliation. However, *N.J.S.A.* 11A:2-24 and *N.J.A.C.* 4A:2-5.1 cover an employee’s lawful disclosure of information on the violation of any law or rule, governmental mismanagement or abuse of authority and permissible political activities or affiliations. Since the appellant’s furlough requests did not fall within any of those categories, the appellant has not presented a *prima facie* case of reprisal.

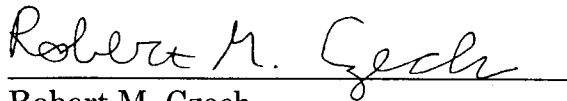
Finally, although it appears that some of the appellant’s allegations may implicate the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy), she did not “promptly” file a complaint regarding these allegations pursuant to *N.J.A.C.* 4A:7-3.1(d) and *N.J.A.C.* 4A:7-3.2(c). Accordingly, the Commission is unable to address any potential State Policy claims at this time.

ORDER

Therefore, it is ordered that these appeals 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 23RD DAY OF NOVEMBER, 2016**



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

- c. Vanessa Bloor
- Michele A. Shapiro
- Kelly Glenn
- Records Center



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

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair Chief Executive Officer

October 9, 2015

Ms. Vanessa Bloor
[REDACTED]
[REDACTED]

**RE: Classification Appeal – Secretarial 3, Non-Stenographic
AS# 06150097, EID# [REDACTED]**

Dear Ms. Bloor:

This is to inform you, and the Department of Transportation, of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted.

Issue:

You are appealing your former title of Secretarial Assistant 3, Non-Stenographic (A15) was not consistent with the assigned duties and responsibilities that you performed. You contend that the title Administrative Assistant 3 (P18) was consistent with the duties that you performed while employed in the Division of Human Resources. A review of our records shows that you have since accepted a position of Secretarial Assistant 2, Non-Stenographic, within Transportation Systems Management effective May 2, 2015.

Organization:

According to the organizational chart that was submitted, your position was located in Department of Transportation, Division of Human Resources' Employee Relations. You reported directly to Edeltraud McQuaid, Manager 2 Human Resources (&32) and did not possess supervisory responsibility.

Ms. Vanessa Bloor
Page 2
October 9, 2015

Finding of Fact:

The primary responsibilities of your position include, but are not limited to the following:

- Acting as a principal assistant to the Manager 2, Human Resources on administrative matters which included: maintaining manager's schedule; scheduling appointments; handling phone and walk-in inquiries.
- Maintaining the disciplinary and grievance databases as well as typing and disseminating all notices associated with those processes.
- Verifying information entered in the Disciplinary Action System which included: entering new information and uploading on pertinent case documents (scans, names, uploads).
- Logging incoming documents into: the Investigative database, hearings spreadsheet, and/or ARB table.
- Gathering background information on employees prior to issuance of disciplinary actions by researching investigative history and alternate employee files (not discipline related) as well as searching for past written notices for misconduct and/or attendance related warnings.
- Acting as a liaison with other organizational units such as Time Management which included following up on informational requests from management in various Divisions within DOT for suspensions and scheduling employee releases for union activity as well as provided copies of served notices of disciplinary actions.

Review and Analysis:

Your position was classified by the title Secretarial Assistant 3, Non-Stenographic (A15-24531C). The definition section of the job specification for this title states:

“May be assigned as a secretary to Assistant Division Directors, Bureau Chiefs, or their organizational equivalents; does other related duties.”

You contend that the title Administrative Assistant 3 (P18-59903) was an appropriate title for your position. The definition section of the job specification for Administrative Assistant 3 (P18-59903) states:

Ms. Vanessa Bloor

Page 3

October 9, 2015

“Assists the head of a Bureau or Service in a state department, institution, or agency by performing and coordinating administrative support services: does other related work.”

The Administrative Assistant series classifies positions responsible for performing a variety of duties to relieve the executive officer of administrative detail related to the internal operation of the unit. The Administrative Assistant serves to coordinate support services to ensure the availability and efficient use of resources needed to accomplish the goals of the unit.

Your former position was located in the Employee Relations Unit and reported to a Manager 2, Human Resources. The title, Manager 2, Human Resources is not equivalent to a head of a Bureau or service.

A review of your primary job duties and responsibilities finds that the position was primarily responsible for providing secretarial support to a Manager 2, Human Resources. In accordance established classification standards, a Manager 2 Human Resources is entitled to utilize the title, Secretarial Assistant 3 Non-Stenographic.

The assigned duties and responsibilities of your former position were significantly descriptive and consistent with the tasks assigned to the title Secretarial Assistant 3, Non-Stenographic.

Determination:

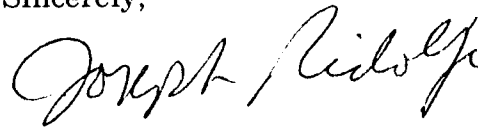
Based upon the findings of fact above, it is my determination that the assigned duties and responsibilities of your position were properly classified by your former title, Secretarial Assistant 3, Non-Stenographic (A15-24531C). Therefore, no further action will be taken.

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 Records Appeals Unit, Division of Appeals and Regulatory Affairs, PO 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

Ms. Vanessa Bloor
Page 4
October 9, 2015

well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in black ink that reads "Joseph Ridolfi". The signature is written in a cursive style with a large, prominent initial "J".

Joseph Ridolfi, Team Leader
Agency Services

JR/rmd

c: Michelle Shapiro, Director, Human Resources
Kim Janiszewski, Manager, Human Resources