



STATE OF NEW JERSEY

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

In the Matter of Lisa Weitz,
Department of the Treasury

Classification Appeal

CSC Docket No. 2018-19

ISSUED: APRIL 10, 2018 (ABR)

Lisa Weitz appeals the determination of the Division of Agency Services (Agency Services) that her position with the Department of the Treasury (Treasury) is properly classified as an Occupational Health Consultant 2. The appellant seeks an Occupational Health Consultant 1 job classification in this proceeding.

The record in the present matter establishes that the appellant is permanent in the title of Occupational Health Consultant 2. The appellant was appointed to that title with this agency, from a regular reemployment list, effective September 24, 2001. The appellant’s position was transferred from this agency to Treasury, effective June 6, 2009. In February 2017, the appellant requested a classification review of her position located in the Treasury’s Division of Property Management and Construction (DPMC). The appellant stated in her Position Classification Questionnaire (PCQ), in relevant part, that she spent 30% of her time conducting ergonomic evaluations for employees at State-owned and leased facilities. She also recorded that she supervised Juvenile Justice Commission (JJC) senior staff, JJC warehouse laborers and a Principal Stock Clerk. The organizational chart submitted in connection with this appeal indicates that the appellant oversees a Principal Stock Clerk and JJC staff employees in the Laborer title series. With regard to her “supervisory” duties, she indicated that she assigned tasks and reviewed completed work, but was not responsible for completing any Performance Assessment Reviews (PARs). The appellant indicated that she received a limited level of supervision.

Agency Services found that the appellant's primary duties and responsibilities entailed conducting ergonomic evaluations for employees at State-owned and leased facilities and it observed that she was the only employee performing ergonomic evaluations. It noted that because she was the only employee conducting such evaluations, she necessarily would have had to perform evaluations that varied in complexity. Accordingly, Agency Services determined that the title of Occupational Health Consultant 1 was inappropriate, as her position did not have a primary focus on difficult evaluations and there was no evidence that she had been acting as a team leader for subordinate professional-level staff. It also noted that incumbents in the title of Occupational Health Consultant 1 receive general supervision while the appellant indicated that she received a limited level of supervision. Based on the foregoing, Agency Services found that the appellant was properly classified as an Occupational Health Consultant 2.

On appeal to the Civil Service Commission (Commission), the appellant argues that her current position encompasses a more complex level of duties than she was originally assigned. In this regard, she submits that after being reassigned to the DPMC in 2015, her role expanded from conducting ergonomic evaluations for only the Department of Environmental Protection (DEP), to taking a lead role in the State Ergonomic Program and conducting evaluations for all departments and agencies. As to her leadership duties, she submits that she writes detailed specifications for ergonomic equipment procurement, works with engineers at the Department of Corrections' Bureau of State Use Industries (DEPTCOR) to design and approve workstations and equipment, and tests and approves equipment intended for Statewide use. She maintains that while she does not complete PARs for other employees, she performs "supervisory" responsibilities. Namely, she proffers that she directs and oversees Treasury Surplus Warehouse and JJC staff, and provides feedback to her manager that he utilizes to complete PARs for the warehouse staff. As to the complexity of her duties, she argues that the varying difficulty level of the ergonomic evaluations she performs does not preclude her position from being classified as an Occupational Health Consultant 1, because the job specification for that title does not confine incumbents to conducting only the most difficult consultation visits. With regard to level of supervision, she argues that she receives a general level of supervision and performs all of her duties independently. She submits that she sets her own calendar and provides written recommendations directly to departments and agencies. She also states that she alone ensures that the results of her evaluations are implemented through the oversight of staff from the Treasury Surplus Warehouse, DEPTCOR, agency facilities and/or other outside vendors hired to conduct remodels and the inspection of all completed work.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Occupational Health Consultant 2 states:

Under general direction of a supervisory official in a state department, institution, or agency, independently conducts consultation visits for the purpose of identifying, evaluating, monitoring, and controlling occupational or environmental health hazards; assists employers and/or others to recognize and prevent occupational or environmental health hazards; evaluates and recommends effective controls; does related work as required.

The definition section of the job specification for Occupational Health Consultant 1 states:

Under general direction of a supervisory official in a state department, institution, or agency, acts as team leader for subordinate professional staff, or conducts the most difficult consultation visits for the purpose of identifying, evaluating, monitoring, and controlling occupational or environmental health hazards; assists employers and/or others to recognize and prevent occupational or environmental health hazards; recommends effective controls; does related work as required

In the instant matter, the appellant disputes Agency Services' characterization of the level of supervision she receives, the complexity of her duties and her assigned supervisory responsibilities. On appeal, she asserts that she receives a general level of supervision consistent with the Occupational Health Consultant 1 title. She argues that the higher-level classification is also warranted because she is now the only employee conducting ergonomic evaluations for the State and she necessarily performs the most difficult evaluations. Finally, she contends that her oversight of Treasury Surplus Warehouse staff and her sole responsibility for ensuring that her ergonomic evaluation recommendations are implemented are supervisory duties consistent with that title.

A thorough review of the information presented in the record establishes that the appellant's position is properly classified as an Occupational Health Consultant 2 and she has not presented a sufficient basis to establish that her position is

improperly classified. At the outset, it is noted that the classification of a position is determined based upon the duties and responsibilities assigned to a position at the time the request for reclassification is received by Agency Services, as verified by audit or other formal study. The outcome of position classification is not to provide a career path to the incumbents, but rather is to ensure that the position is classified in the most appropriate title within the State's classification plan. Further, how well or efficiently an employee does his or her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. *See In the Matter of Debra DiCello* (CSC, decided June 24, 2009). As such, the appellant's shift from completing ergonomic evaluations for the DEP to performing them for all State agencies does not, in and of itself warrant a reclassification of her position to an Occupational Health Consultant 1. *See In the Matter of Paul Bieksza* (Commissioner of Personnel, decided July 26, 1999) (Duties assigned to a particular position evolve over time based on the relative competencies of the position incumbent but appellants in classification proceedings have the burden to demonstrate that the duties of the position have evolved to an extent warranting reclassification of the position to a higher in-series title). Instead, her classification must be reviewed based upon her assigned duties at the time she submitted her PCQ.

A review of the job definitions for both titles reveals that they perform generally the same work, with the difference being in the difficulty of the consultation visits performed and/or the higher level title taking the lead over co-workers or professional-level subordinates performing the same work. However, there is no indication that either function is the primary focus of the appellant's duties. First, while the appellant states on appeal that she is responsible for directing and overseeing the Treasury Surplus Warehouse and JJC staff employed at the Treasury Surplus Warehouse, there is no indication that she acted as a team leader for subordinate *professional* staff. Notably, the record indicates that the warehouse positions in question are all non-professional titles, including Principal Stock Clerk and the Laborer title series. Further, the mere fact that the appellant may be the only individual in the State performing ergonomic evaluations does not mean that she should be classified as a lead worker. *See In the Matter of John Freise* (CSC, decided May 1, 2013) (Being the sole expert in a particular area did not establish that the appellant's position should be classified by a lead worker title).

Furthermore, the appellant does not demonstrate that she performed a high proportion of difficult consultations that would warrant an Occupational Health Consultant 1 classification. A worker may be considered to engage in "difficult" or "complex" tasks for classification purposes where, for example, he or she utilizes non-routine procedures, deals with unusual subject matter and/or interacts with sophisticated parties. *See In the Matter of David Akins, William Bialowasz and Philip Greenberg* (Commissioner of Personnel, decided August 16, 2005) (While it is

difficult to accurately define a “complex negotiation,” a negotiation is not necessarily considered complex based by the dollar amount/value, but rather by the nature of the acquisition itself such as acquisitions involving frequent departures from standard practices and guidelines). The appellant does not delineate in her PCQ or on appeal how much of her time is spent on evaluations that utilize non-routine procedures, deal with unusual subject matter or otherwise involve a comparatively greater level of difficulty than a typical evaluation. The Commission recognizes that the appellant’s duties would include performing the most complex ergonomic evaluations while serving as the only individual assigned to do so for State facilities. Nevertheless, it is not uncommon for an employee to perform some duties which are above or below the level of work normally assigned to incumbents in a given title. Furthermore, the appellant does not suggest and the Commission has no reason to conclude that the 30% of the time the appellant spends conducting ergonomic evaluations encompasses only the most difficult consultations. Moreover, the appellant has not demonstrated that the difficulty level of a majority of her overall duties have evolved to an extent warranting reclassification of her position to the title of Occupational Health Consultant 1. *See In the Matter of Paul Bieksza* (Commissioner of Personnel, decided July 26, 1999) (Duties assigned to a particular position evolve over time based on the relative competencies of the position incumbent but appellants in classification proceedings have the burden to demonstrate that the duties of the position have evolved to an extent warranting reclassification of the position to a higher in-series title).

Finally, the appellant asserts on appeal that she only receives general supervision and performs all of her duties independently. However, the Commission is reluctant to accept that claim, given her initial assertion in her PCQ was that she received limited supervision. In that regard, the Commission notes that the instructions to the PCQ provide clear definitions for the different levels of supervision. Furthermore, even if the appellant’s contention that she received general supervision was accepted, that additional detail does not establish that her duties rise to the level of Occupational Health Consultant 1.

Accordingly, the foregoing demonstrates that the appellant’s work is consistent with the Occupational Health Consultant 2 classification.

ORDER

Therefore, it is ordered that this appeal be denied, and the position of Lisa Weitz is properly classified as an Occupational Health Consultant 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 4TH DAY OF APRIL, 2018

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