



STATE OF NEW JERSEY

In the Matter of Patricia Curcio,
Department of the Treasury

CSC Docket No. 2023-1377

**FINAL ADMINISTRATIVE ACTION
OF THE CHAIR/
CHIEF EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION**

Classification Appeal

ISSUED: April 18, 2023 (SLK)

Patricia Curcio appeals the determination of the Division of Agency Services (Agency Services) that the proper classification of her position with the Department of the Treasury is Supervisor Licensing Section (SLS). The appellant seeks an Administrative Analyst 3 (AA3) classification.

The record in the present matter establishes that the appellant's permanent title is SLS. The appellant sought reclassification of her position, alleging that her duties were more closely aligned with the duties of an AA3. The appellant reports to Jack Leo, Deputy Director State Lottery. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the duties that she performs as a SLS. Agency Services reviewed and analyzed the PCQ and all information and documentation submitted. Agency Services also interviewed the appellant and Leo about her duties. Agency Services found that the appellant's primary duties and responsibilities entailed, among other things: coordinating the License Renewal process with Licensing Staff, Contract Support, Northstar NJ, IMS, and the Print Shop; preparing for the printing and mailing of all necessary renewal related documents and ensuring all renewal applications are received and processed in a timely manner; providing input, expertise and research on current and/or proposed procedures which will assist the Licensing Unit and the State Lottery as a whole; preparing and completing Performance Evaluation Reviews (PARs) for all Licensing Staff and documenting and addressing any performance exceptional activities or deficiencies in a timely manner; and acting as a liaison to the Division of

Taxation for the State Lottery/taxation information Exchange Agreement and any applicant data request. In its decision, Agency Services determined that the duties performed by the appellant were consistent with the definition and examples of work included in the job specification for SLS.

On appeal, the appellant presents that she was recently given 50 percent of the duties of an AA3 and all the duties of an AA2. Therefore, she questions why she was given the duties for two higher-level professional titles, but she was not entitled to the pay range of these titles. The appellant states that it can take all morning to get through emails pertaining to issues and questions of these added duties and these duties were formerly supervised by R.S., a Deputy Director, State Lottery, and S.D., an AA3. She indicates that she has not received notice of her subordinate's reclassification review request, but if her subordinate is deemed to be an AA, then she assumes that her title must be changed to a professional title and salary range.

The appellant submits emails from the Director indicating that she is splitting the work of S.D, 50/50. The appellant presents L.P., a Technical Assistant, who has expressed that she has taken over 50 percent of the work, and B.M., a Principal Account Adjuster, State Lottery, to verify her statements.

The appellant provides an email from J.D., AA2, which sent over the entire Standard Operating Procedures handbook of her duties, which were the main duties for two full-time AAs. Additionally, she submits screen shots of data analyzing personnel who are non-owner retail associates so that a criminal background check can be done and the steps that she takes in the process. The appellant notes that she receives an average of 30 to 45 of these submissions per week and sometimes more. Further, she indicates that she was recently given the responsibility of searching corporate ownership using an Oracle database. She describes the steps she takes using this database and notes that this work was previously performed by J.D. The appellant also describes the work that she performs regarding Federal Tax Identifications as they must be accurate and match the Internal Revenue Services' database regarding the exact name and number of Lottery 1099s that are sent out to retailers.

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 SLS (S20) job specification states:

Under the direction of a supervisory officer, supervises personnel engaged in investigative activities relating to the issuance of Licenses in Accordance with the New Jersey Statutes; does related work as required.

The definition section of the AA3 (P26) job specification states:

Under general supervision of an Administrative Analyst 4 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.

In this present matter, a review of the job specification definition sections indicates that the distinguishing characteristics between the two titles are that the primary duty of an AA3 is to analyze department procedures to make recommendations for changes, while a SLS does not perform that function and also supervises staff. A review of the record indicates that the appellant's primary responsibility is to supervise Licensing staff and perform day-to-day operations duties regarding the applications and licensing of State Lottery retailers. Further, while the appellant may assist with providing recommendations for the department, the email attachments that she submits on appeal regarding her changed duties do not indicate that her primary focus is to perform analysis of her department to make recommendations. Instead, she is performing work that involves licensing State Lottery retailers, which is consistent with a SLS classification. The fact that her workload may have increased due to new duties being reassigned does not justify a position reclassification. 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). Additionally, the fact that these reassigned duties were previously performed by AAs does not automatically signify that these were AA duties. Instead, a review of these duties indicates that these are day-to-day operation duties for the Licensing department and more appropriately assigned to the appellant, as a SLS, instead of AAs. Further, 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 Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). *See also, In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998).

Concerning the email from S.D., an AA3, it does not indicate that all of S.D.'s duties are being split 50/50 as the appellant contends. Instead, the email indicates that of the duties that are shared, this is how these duties will be split. A review of the interview with the appellant's supervisor, Leo, indicates that there were some duties that Licensing was performing that were more appropriately performed by Auditing and some duties that Auditing was performing that were more appropriately to be performed by Licensing. Presumably, the attachment to the email provides guidance so that the duties that are more appropriate for Licensing are to be performed by Licensing personnel and the duties that are more appropriate for Auditing are to be performed by Auditing staff. It is also noted that Leo indicates that the appellant received five percent of what previously had been auditing and L.P., a Technical Assistant from Auditing, was transferred to Licensing because the appellant indicated that Licensing was understaffed.

Regarding the email from J.D., an AA2, it is noted that the subject of this email is "Turnover of responsibility of Licensing Responsibilities from contract support to Licensing." The email indicates the Contract Compliance Standard Operating Procedures are attached and it provides instructions regarding certain steps in the contract compliance process. Again, this is another example of work that may have been previously performed by an AA, but is more appropriately assigned to the Licensing unit as these duties involve the day-to-day operations of Licensing and are not AA duties that involve the analysis of a department operations to provide recommendations to revise department or organization procedures.

Additionally, when the appellant was interviewed by this agency as to why she believes that she is now performing AA3 duties, the specific duties that she described were making sure terminals are timely, the trainings are more in depth, more applications are time consuming, inheriting contract support issues, dealing with more technology issues, and working with Northstar and security to ensure that all compliance was met and any changes are distributed between subordinates. In other words, even if the appellant's job is more demanding because of the reassigned duties and some of these duties may have previously been performed by those in higher-level titles, the record indicates that that is was the AAs who were performing duties that were more appropriately assigned to Licensing as opposed to the appellant now performing AA duties, as the appellant described day-to-day Licensing operations duties and did not indicate that her job was to primarily analyze the operations of the department to make changes, which are AA duties.

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 ON
THE 18TH DAY OF APRIL, 2023

Allison Chris Myers

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