



STATE OF NEW JERSEY

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

In the Matter of Wayne Collins,
Office of Information Technology

CSC Docket No. 2022-1260

Request for Reconsideration

ISSUED: FEBRUARY 18, 2022 (RE)

Wayne Collins, represented by Dudley Burdge, CWA Local 1032, requests reconsideration of the decision rendered on October 27, 2021, which upheld the determination of the Division of Agency Services (Agency Services) that his position with the Office of Information Technology is Technician, Management Information Systems (MIS).

By way of background, the petitioner requested Agency Services review his position, arguing that his duties were not consistent with his permanent title of Technical Assistant, MIS, but were those of a Technical Support Specialist 1. Agency Services conducted a detailed analysis of his Position Classification Questionnaire (PCQ) and other documents, and found that the petitioner's duties were those of a Technician, MIS. The petitioner appealed Agency Services' determination to the Civil Service Commission (Commission). He argued that the Technician, MIS is designated either as a 40 hour work week (or as NE) and he works 35 hours per week in a fixed work week, under administrative control, determined by the direction of a supervisor rather than the nature of the service, and with employees having minimal discretion over their work schedule. He argued that the classification of his position as Technician, MIS, an NE title rather than 40 hour work week title, is inconsistent with operational necessities and created a disincentive to work overtime. Thus, the classification of his position to Technician, MIS from Technical Assistant, MIS entailed a financial loss for him.

In its determination finding that the position is properly classified as Technician MIS, the Commission indicated that employees designated in NE titles

are required to work *at least* 35 hours per week, with occasional requirements for a longer workweek to complete projects or assignments. Thus, while an employee in an NE title may generally work at least 35 hours a week, if he or she works more than 35 hours, but less than 40 hours, they are not entitled to additional cash compensation for these hours. The base salary for all NE titles contemplate that an employee could potentially work up to 40 hours. It found that potential overtime compensation issues are not a basis on which to classify a position. Additionally, while the Technical Support Specialist 1 title is a lead worker title, the record did not establish that the appellant functioned as a lead worker over employees performing the same kind of work on a consistent, daily basis, and the information that he provided on appeal also did not establish that he was taking the lead over coworkers.

On reconsideration, the petitioner argues that a clear, material error has been made. Specifically, he states that the Commission erred in not addressing his concerns related to the inappropriate use of the NE title for 35 hour work weeks. He also states that he did not ask for the Technician, MIS title, nor should he have expected a different classification than the one he requested. He continues to protest that he has had to pay money for a promotion and the operation of the unit is disrupted by the disincentive of him to work more than 35 hours per week as a Technician, MIS.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

At the outset, the petitioner has not met the reconsideration criteria. He has not shown a clear material error or presented new evidence or additional information not presented at the original proceeding which would change the outcome of the case.

First, the Commission explained that the appellant was not a lead worker, and therefore, the Technical Support Specialist 1 title was inappropriate. Next, it found that Technician, MIS was more appropriate than Technical Assistant, MIS. In that respect, *N.J.S.A.* 11A:3-1 and *N.J.A.C.* 4A:3-3.1(1) provide that each position in the career and unclassified services shall be assigned by the Commission to a job title. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. *N.J.A.C.* 4A:3-3.5(a) states that when the duties

and responsibilities of a position change to the extent that they are no longer similar to the duties and responsibilities set forth in the specification, and the title is no longer appropriate, the Commission shall reclassify the position to a more appropriate title if there is one. Thus, any employee who files for a classification review should expect that the position will be classified under an appropriate title, even if that title was not requested in the classification appeal.

As to the assignment of a work week, a classification review is not the forum for a discussion on potential overtime compensation issues, and the appellant's arguments in this regard have no bearing on his position classification. As a Technician, MIS, if the petitioner is scheduled to work a 40 hour work week, he should do so, as the title receives pay for a 40 hour work week. The petitioner is not entitled to overtime pay for working 40 hours per week or less. As noted by the Commission, the base salary for all NE titles contemplates that an employee could potentially work up to 40 hours. It is well established that the volume of work has 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).

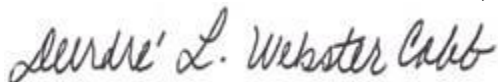
A thorough review of the information presented in the record establishes that the petitioner has not presented a sufficient basis to establish that his position is improperly classified.

ORDER

Therefore, it is ordered that this request 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 16TH DAY OF FEBRUARY, 2022



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