

B-17



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Toni Williams,
Department of Human Services

CSC Docket No. 2015-617

Request for Reconsideration

ISSUED: NOV 07 2014

(RE)

Toni Williams, a Social Worker 2, represented by Jenna Gladhill, CWA Local 1040, petitions the Civil Service Commission for reconsideration of the decision rendered on August 13, 2014, which found that the layoff title rights criteria were correctly applied. A copy of that decision, entitled *In the Matter of Toni Williams, Department of Human Services* (Civil Service Commission, decided August 13, 2014), is attached hereto and incorporated herein.

By way of background, the appellant was displaced from her permanent position of Social Worker 1 at Woodbridge Developmental Center as a result of layoff on June 27, 2014. The appellant appealed for rights to her prior-held title, Social Worker 1 Psychiatric which was in the same class code as her permanent title, and she requested the same rights as another individual who had more seniority in the title. She also discussed issues regarding an open-competitive examination for a local title. The Commission concluded that the appellant does not have lateral title rights to a prior-held title, and that lateral rights for the Social Worker 1 title extended only to the titles Social Worker 1 Developmental Disabilities and Social Worker 1 Corrections. The Commission also found that she was less senior to the other individual, who had rights to her position. The Commission indicated that if the appellant was told that she had rights to her prior-held title, that was an administrative error.

In the present matter, the appellant was provided with the reconsideration criteria, but did not indicate in her request that there was a clear material error. She simply maintains that she was not given the correct information "to make a

proper decision,” and feels that the Commission’s response is unacceptable. She also brings up a new issue, that she was not given rights to a position as a Social Worker 1 Corrections.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) provides that a petition for reconsideration must show the following:

1. New evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

Applying this standard to the instant matter, the petitioner has not demonstrated that reconsideration should be granted. The appellant’s concerns were addressed in the decision below and she has not demonstrated that a clear material error has occurred or presented new information which would change the outcome.

First, the Commission indicated that the appellant cannot benefit from an administrative error. The appellant’s insistence that this is unacceptable is not evidence of a clear material error. The fact that the layoff team did not allow an administrative error to occur, or that the Commission will not uphold the allowance for an administrative error to be perpetrated retroactively, is not a basis for appeal. The appellant’s prior-held title should not have appeared on her Declaration form, and the correct action was taken by the layoff team in denying her a position in that title. The appellant does not have rights to laterally displace an individual in her prior-held title, Social Worker 1 Psychiatric, as this was the same class code as her regular title, Social Worker 1. Also, the Social Worker 1 base title does not have lateral rights to Social Worker 1 Psychiatric. *See In the Matter of Ancy Joseph, Department of Human Services* (CSC, decided September 17, 2014). The appellant’s title had lateral rights to Social Worker 1 Corrections, but she would only be offered a position in that title if one was available **in the Department of Human Services**. There is no indication of a clear material error of the application of title rights criteria.

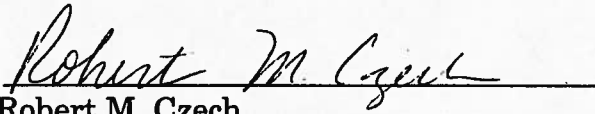
The appellant has failed to present a basis for reconsideration of this matter since she failed to establish that a clear material error occurred in the original determination or that new evidence presented would change the outcome of the appeal.

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
THE 6th DAY OF NOVEMBER, 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**

Attachment

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



STATE OF NEW JERSEY

In the Matter of Toni Williams,
Department of Human Services

CSC Docket No. 2014-2749

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

Layoff Appeal

ISSUED: AUG 14 2014

(RE)

Toni Williams, a Social Worker 1 at Woodbridge Developmental Center, appeals her demotion in lieu of layoff to Social Worker 2.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles, including employees of the Division of Developmental Disabilities, due to the closure of the North Jersey Developmental Center, effective June 27, 2014. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that Ms. Williams was displaced from her Social Worker 1 position at Woodbridge Developmental Center, and she was demoted to Social Worker 2.

On appeal, Ms. Williams argues that she should have been given rights to her prior-held title, Social Worker 1 Psychiatric. She states that she had no break in service after transferring from Trenton Psychiatric Hospital to Woodbridge Developmental Center and was told it was a lateral move. She asserts that she was not told that she would lose her rights to return to this prior held title, and that she appealed to have the psychiatric variant reestablished. She states that her name was incorrectly removed from a certification (OL131368) from an open competitive list for the title Psychiatric Social Worker (C0367R), Middlesex County in January 2014, and that she was appealing that action.

The appellant's circumstances were reviewed, and she was informed by Commission staff that the titles Social Worker 1 and Social Worker 1 Psychiatric

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.

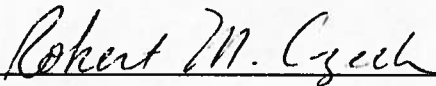
Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met her burden of proof in this matter.

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 13th DAY OF AUGUST, 2014


Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
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