

B-48



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Sharon Winn
Senior Public Health Nurse,
Trenton

CSC Docket No. 2017-455

Layoff Appeal

ISSUED: JAN 23 2017

(RE)

Sharon Winn, Public Health Nurse with Trenton, appeals the determination of her layoff rights by the Division of Agency Services (DAS).

By way of background, effective June 30, 2016, during a layoff action, the appellant was bumped from her position as a Senior Public Health Nurse by a Public Health Nurse Supervisor into a Public Health Nurse position in the Department of Health and Human Services in Trenton. On appeal, Ms. Winn argues that the incumbent Public Health Nurse Supervisor, Gwendolyn Carter, should not have been given rights to her Senior Public Health Nurse position. Specifically, she states that Carter was acting out-of-title as a Health Educator and was not performing nursing duties; never met the requirements for permanent appointment as a Public Health Nurse Supervisor; was clandestinely permanently appointed; and had been suspended several times.

CONCLUSION

There are three types of displacement rights, two of which are title rights, lateral and demotional; the third right is a demotional right to a previously held title (or prior held right). Lateral and demotional title rights are determined in accordance with *N.J.A.C. 4A:8-2.1 et seq.*, and through a comparative analysis of the Civil Service Commission's job specifications.

Usually, in an appeal of this nature, it must be determined whether DAS 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. A thorough review of the record establishes that the appellant's layoff rights were properly determined. In this case, the Public Health Nurse Supervisor title has demotional title rights to Senior Public Health Nurse and the appellant does not contest this issue. Official records indicate that Ms. Carter was regularly appointed as a Public Health Nurse Supervisor on April 12, 2011 from certification OL110318. As she was hired off of an eligible list, she met the announced open competitive requirements. In this regard, an employee's disciplinary record has no bearing in layoff rights determinations. Further, out-of-title work is not a basis for a challenge to title rights as defined in Title 4A of the Administrative Code. Neither the individual's qualifications, the duties of a particular position, nor the organizational structure, is used in determining layoff rights. Rather, the job specification is used. Accordingly, there is no error in the determination of layoff rights in this circumstance.

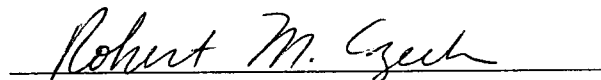
A review of the merits fails to establish that Ms. Winn's layoff rights were determined incorrectly and the appellant has not met her burden of proof in this matter.

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
ON THE 18th DAY OF JANUARY, 2017


Robert M. Czech
Chairperson
Civil Service Commission

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