

*In the Matter of Jennifer Hunter, Claims Examiner, Workers' Compensation,
Typing, Monmouth County*
DOP Docket No. 2006-5186
(Merit System Board, decided November 1, 2006)

Monmouth County requests that Jennifer Hunter's out-of-title work experience be accepted to qualify her for a demotional title change to Claims Examiner, Workers' Compensation, Typing.

By way of background, in August 2005 the appointing authority requested assistance from the Division of Human Resource Management (HRM) to properly classify Ms. Hunter's position. Thus, the appointing authority submitted a Position Classification Questionnaire (PCQ) as well as supporting documentation detailing Ms. Hunter's responsibilities in the Workers' Compensation Unit of the appointing authority's Personnel Office. On December 16, 2005, HRM issued a determination indicating that the duties and responsibilities assigned to Ms. Hunter were "encompassed within and commensurate with ... the title, Claims Examiner, Workers' Compensation, Typing." As such, HRM indicated that Ms. Hunter would be considered as serving provisionally in the title of Claims Examiner, Workers' Compensation, Typing, pending a qualifying examination, effective September 20, 2005.

However, HRM advised the appointing authority that Ms. Hunter's movement from Principal Clerk Typist, her permanent title, to Claims Examiner, Workers' Compensation, Typing, is considered a demotion based on the class codes of the titles. Consequently, if the appointing authority still desired to proceed with the transaction, HRM advised that it must explain to Ms. Hunter that an employee accepting a voluntary demotion loses the right to the title from which she is demoted in the event of a layoff. Therefore, in order to effectuate the voluntary demotion, HRM would need the employee's signature on a completed CAMPS Personnel Action form. Further, should Ms. Hunter not agree to the voluntary demotion, HRM indicated that she must then be assigned duties appropriate to her permanent title of Principal Clerk Typist. Additionally, HRM noted in its determination that Ms. Hunter's "ability to meet the requirements for the title of Claims Examiner, Workers' Compensation, Typing, is not automatically apparent from the background information available in her work history," so it was requested that she file an application for a voluntary demotion, pending a qualifying examination.

In response to HRM's request, Ms. Hunter filed an application for a qualifying examination to the demotional title. Ms. Hunter indicated that

from June 2003 to when her credentials were being reviewed in January 2006, she was a Principal Clerk Typist. In this position, she described her experience as:

Review workers' compensation reports of injury/illness, schedule medical appointments, electronic reporting of injury/illness to Dept. of Labor, process payroll state (sic).

From July 2000 to June 2003, Ms. Hunter indicated that she was a Senior Clerk Typist. In this position, she described her experience as:

Prepare and maintain records, prepare department correspondence, process payroll statements for workers' compensation claims, operate standard office equipment.

Ms. Hunter also indicated experience as a Clerk Typist from June 1999 to July 2000. Attached to Ms. Hunter's application was a copy of the PCQ that was filed with HRM. In a January 26, 2006 cover letter submitted with the application, the appointing authority indicated that it accepted the determination with respect to the classification of Ms. Hunter's position, but that it was unclear as to why the Department of Personnel would consider a movement from Principal Clerk Typist to Claims Examiner, Workers' Compensation, Typing, to be a "demotion," considering that both titles require two years of relevant experience and that the duties associated with the proposed title are seemingly more complex.

In the attached response, HRM explained that an appointment to Claims Examiner, Workers' Compensation, Typing, is considered a demotion because the title in which Ms. Hunter is permanent, Principal Clerk Typist, has a higher class code than the title to which she has been reclassified. Specifically, HRM indicated that the Principal Clerk Typist title is assigned at the class code 2 level and the Claims Examiner, Workers' Compensation, Typing, has a class code 1. Therefore, the change of title from class code 2 to a class code 1 is considered a demotion. Moreover, HRM indicated that a class code is generally related to years of experience and/or education. In this case, both of the titles at issue are non-professional titles with no educational requirements that require two years of experience. However, "when education and experience are equivalent, class code must be determined by the level of the title in a title series." As such, since the Principal Clerk Typist title is the third level in the Clerk Typist series and the Claims Examiner, Workers' Compensation, Typing title is an entry level title, the Principal Clerk, Typist title is assigned a higher class code. HRM also advised the appointing authority that Ms. Hunter's application had been reviewed by the Division of Selection Services and it was determined that she

did not meet the experience requirements. As such, HRM indicated that disapproval of pending qualifying examination would be recorded in Ms. Hunter's CAMPS file and that "all out-of-title work should be reassigned" and she should be returned to her permanent title.

On appeal to the Merit System Board, the appointing authority presents that HRM advised it that the proper classification for the position in question would be that of Claims Examiner, Workers' Compensation, Typing and that Ms. Hunter would need to agree to a "voluntary demotion" in order for the title change to be effectuated. Notwithstanding its confusion that this transaction should be considered a demotion and, despite the fact that the qualifications for the proposed title and Ms. Hunter's permanent title were equivalent, the appointing authority and the employee agreed to a voluntary demotion. The appointing authority presents that it is now advised that Ms. Hunter "failed" the qualifying examination, apparently on the basis that she has been performing out-of-title duties since June 2003. The appointing authority underscores that it was uncertain as to what title Ms. Hunter should be classified and she was never properly classified until it was determined that her title should be Claims Examiner, Workers' Compensation, Typing, in September 2005. Additionally, it states that this situation was not the fault of Ms. Hunter and there will be no negative impact upon any other employee or candidate if her out-of-title work experience is permitted to be considered toward fulfilling the requirements of the subject title. Finally, the appointing authority emphasizes that this situation evolved as a result of its request to the Department of Personnel for assistance to properly classify Ms. Hunter. Thus, to refuse to allow her out-of-title work to be considered applicable would, "negate any 'assistance' that we may have received from the Department of Personnel, and we would find ourselves right back where we began." As such, Monmouth County requests that Ms. Hunter's out-of-title work experience be permitted as fulfilling the requirements for the subject title in order to allow her to pass the qualifying examination and that her title change be effectuated, albeit, as a "demotion."

According to *N.J.A.C.* 4A:1-1.3, "class code" means a designation assigned to job titles in State Service with ranking based upon an evaluation of job content. "Demotion" means, in local service, a reduction in title or scale of compensation, and in State service, a reduction in class code. "Local service" means employment in any political subdivision operating under Title 11A, New Jersey Statutes. "State service" means employment with the State of New Jersey. "Title series" means titles involving the same kind of work and ranked according to level of difficulty and responsibility.

N.J.A.C. 4A:4-7.8(a) states that a voluntary demotion is the voluntary movement of a permanent employee from his or her permanent title to a

lower title in local service, or, in State service, to another title with a lower class code, within the same organizational unit.

N.J.A.C. 4A:4-2.6(c) provides that applicants for promotional examinations with open competitive requirements generally may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process, unless good cause is shown for an exception.

It is noted for the record that in local service, non-supervisory/managerial title class codes have been established by departmental practice generally utilizing the following criteria:

Trainee Level (00): This level general contains the word “trainee” within the title. This designation is usually used for non-professional or clerical titles having no requirements.

Entry Level (01): This level generally requires no more than one year of experience or, in some cases, no experience. Titles having no experience, but requiring a degree and/or having knowledge and abilities are considered entry level titles.

Experienced (02): This level generally requires two years of experience and has no supervisory responsibility. Titles at this level are generally considered to be at the “senior” level.

Master (03): This level generally requires three years of experience and has no responsibility for performance evaluations. Titles at this level are generally considered to be at the “principal” level.

CONCLUSION

The initial issue in this case is whether the proposed movement from the Principal Clerk Typist to Claims Examiner, Workers’ Compensation, Typing title constitutes a demotion. HRM explained to the appointing authority that it classifies the Claims Examiner, Workers’ Compensation, Typing as a class code 1 since it is an entry level title and that “when education and experience requirements are equivalent, class code must be determined by the level of the title in a title series.” In this particular case, the Board disagrees. Class code, which is not defined in the rules for local service, but for comparative purposes, is a ranking based on job content. A review of the most recent Classification Support System Listing of All Active Titles Report (July 2006), indicates the existence of the Claims Examiner,

Workers' Compensation, Typing title as well as a dual title Claims Examiner, Workers' Compensation/Graduate Nurse title. There are no other titles with a similar moniker utilized in local service. Further, with respect to the dual title, while the Claims Examiner, Workers' Compensation portion does not include the Typing distinction, the two year experience requirement is identical to the one with the Typing distinction.

According to the job specification for Claims Examiner, Workers' Compensation, Typing, incumbents primarily receive accident reports for all municipal employees and make tentative determinations as to eligibility for Workers' Compensation in accord with statutes of the State of New Jersey governing Workers' Compensation and municipal regulations concerning local employees; review, check, and certify reports and applications; prepare and maintain records and files; as well as other related duties and typing as required. Additionally, it is noted that there is a Senior Claims Examiner title included in the classification plan for local service. According to the job specification for that title, incumbents primarily perform the work involved in insurance plan enrollments, process and verify claims, issue payments, and may take the lead in a claims unit. The requirements for this title are three years of experience. Thus, while it is evident that incumbents in both of these titles, in the broadest sense, perform the same kind of work since they "examine claims," it appears that they should be considered different "title series" as the Senior Claims Examiner title does not necessarily involve a higher level of difficulty and responsibility. Rather, this title seems to be focused on the processing of insurance claims in areas other than (*e.g.*, group health, general liability, property, etc.) the specialized field of Workers' Compensation.

In the same vein, a Supervisor of Claims title is also included in the classification plan for local service. Incumbents in this title have charge of a unit responsible for the investigation, evaluation, processing claims and/or settlement or payment of claims arising out of workers' compensation, negligence or tort claims filed against the State or other claims involving State or local employees and/or State government owned property, as well as other types of negligence or tort claims made against the State or agency for ownership of abandoned real or personal property. However, this is a professional level title that requires a Bachelor's degree and four years of experience which can be utilized for a variety of types of insurance claims, including Workers' Compensation. In short, it appears that the Claims Examiner, Workers' Compensation, Typing title is the *only* title in the title series, not necessarily the entry level, experienced level, or master level. Given that this is the sole title in this non-professional series (*i.e.*, no Trainee, Senior or Principal level Claims Examiner, Workers' Compensation, Typing title exists), the Board is of the opinion that the class code for the Claims

Examiner, Workers' Compensation, Typing title should be evaluated solely on the basis of the years of experience required for the title. As such, given that this title requires two years of experience to establish eligibility, the Board finds in this case that it is not an entry level title and that it should be assigned class code 2. Therefore, the requested transaction would not require Ms. Hunter to undergo voluntary demotion procedures. Rather, the appointing authority's transaction should be processed as a lateral title change request under the provisions of *N.J.A.C. 4A:4-7.6(c)*.

With respect to the qualifying examination, in light of the classification determination and the appointing authority's support, the Board is satisfied that Ms. Hunter's description of her duties from June 2003 to when her credentials were reviewed met the requirements of two years of experience involving interviewing people, computing figures, and verifying claims. Ms. Hunter's experience in the Workers' Compensation Unit is clearly applicable for the subject title. As the appointing authority so aptly stated, absent relief from the Board, "we would find ourselves right back where we began" effectively negating any assistance that it may have received from the Department of Personnel. In a time when human resource management in the public sector needs to emphasize both flexibility and fairness in the classification and advancement of its employees, appointing authority efforts to properly classify and/or advance employees should not be thwarted by rigid and narrow policy interpretations, particularly when the reasonable uniform standards (*i.e.*, relating class code to required years of experience for a particular title) have been satisfied. Under these circumstances, good cause is present to accept Ms. Hunter's out-of-title work in order to qualify her for a lateral title change to the Claims Examiner, Workers' Compensation, Typing title.

ORDER

Therefore, it is ordered that this request be granted and Ms. Hunter's applicable out-of-title work experience be accepted on a year for year basis for the qualifying portion of this lateral title change request.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.