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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Rosina Francis,
Department of the Treasury

CSC Docket No. 2015-2897

Classification Appeal

ISSUED: **JUL 20 2015** (LDH)

Rosina Francis appeals the attached determination of the Division of Agency Services (DAS) that her position with the Department of the Treasury was properly classified as a Claims Investigator 1. Francis seeks a Claims Investigator 2 classification.

The record in the present matter establishes that Francis is serving permanently in the title of Claims Investigator 1, and is assigned to work in the Division of Risk Management. Francis pursued the matter of her classification with DAS. She was asked to complete a Position Classification Questionnaire (PCQ) and all documentation supplied by Francis, including her most recent Performance Assessment Review (PAR), was reviewed. Subsequently, DAS performed a telephone audit of her position. DAS found that the duties and responsibilities of Francis' position entailed interpreting the New Jersey Tort Claims Act as pertaining to a given case; applying appropriate negligence, tort and contract law where applicable; analyzing contracts from various State agencies; resolving concerns of indemnification, contributory negligence, liability of the State as well as potential defendants in a given case; obtaining information from State agencies, attorneys, witnesses and various other sources in order to defend the interests of the State; interviewing witness, claimants and other State personnel in order to gather the necessary facts for a claim; preparing clear, sound file notes of claim matters; preparing case analysis for management review so as to avoid potential trial and litigations costs; and preparing cases for supervisory review for referral to

the Division of Law for handling. However, DAS found that Francis did not have settlement authority over the cases she handled. Based on the foregoing, DAS determined that the duties performed by Francis were consistent with the definition and examples of work included in the job specification for Claims Investigator 1.

On appeal to the Civil Service Commission (Commission), Francis argues that her duties and responsibilities are more consistent with a Claims Investigator 2. She argues that she does make settlement recommendations of non-routine and complex cases. In support, she points to her PAR, PCQ and a letter from her supervisor, Peter Ramos. Specifically, Ramos indicated that although he initially stated that Francis did not have settlement authority, she did in fact have settlement authority over routine cases. Moreover, Francis argues that over 80% of her duties are out-of-title and are more indicative of the duties of the Claims Investigator 2 title. Specifically, she indicated on her PCQ that 10% of her time is spent analyzing and interpreting contracts; 15% of her time is spent applying appropriate negligence law where applicable; 5% of her time is spent compiling necessary information; 5% of her time is spent contacting attorneys; 10% of her time is spent sending inquiry letters; 10% of her time is spent preparing cases for supervisory review; 10% of her time is spent preparing file notes; 10% of her time is spent interviewing witnesses; 2% of her time is spent attending agency meetings; and 10% of her time is spent settling cases with opposing parties. Most notably, she contends that her preparation of defense claims against the State for management review and settlement authority, is specifically reserved for individuals serving in the title of Claims Investigator 2. Based on the foregoing, Francis argues that the title of Claims Investigator 2 is more appropriate.

CONCLUSION

The definition section of the job specification for the title Claims Investigator 1 states:

Under the close supervision of a Claims Investigator 3, Claims Investigator 4, or other supervisory official in a State department or agency, conducts investigations of claims arising from State employee employment-related injuries and disease; accidents resulting in damage to State owned property damage; and/or third party claims for bodily injury and/or property damage arising from the use or operation of State owned properties and/or the activities of State employees; or assigned to an office location, investigates, evaluates and processes claims arising out of workers compensation, negligence, tort and/or claims for ownership of abandoned real and personal property accrued to the State, other claims involving State employees and/or State owned property; as well as other types of negligence or tort claims made against the State; does related work as required.

The definition section of the job specification for the title Claims Investigator 2 states:

Under the limited supervision of a Claims Investigator 3, Claims Investigator 4, or other supervisory official in a State or local government department or agency, conducts the more complex and/or sensitive investigations and evaluations; recommends settlements or payment of claims arising out of worker compensation, negligence, tort and/or claims of ownership of abandoned real and personal property accrued to the State, other claims involving State/local employees and/or State/local owned property, as well as other types of negligence or tort claims made against the State; may provide guidance and instruction to investigate and other staff involved in the work of the unit; does other related duties.

In the instant matter, Francis is properly classified as a Claims Investigator 1 as the primary function of her position is to investigate tort claims and obtain information pertinent to Title 59 statutes. Alternatively, an individual in the title of Claims Investigator 2 primarily recommends settlements or payments for various types of claims. On her PCQ, Francis indicated that 10% of her time involved settling cases with opposing parties to resolve the matter favorable to the State. Despite Francis' contention that 87% of her duties are out-of-title, only settlement recommendations can be said to be properly performed by an incumbent in the title of Claims Investigator 2. Though there is some ambiguity with Ramos' letter concerning the appellant's settlement authority with respect to complex cases, the appellant's primary duty is not in making settlement recommendations for complex cases. The appellant and her supervisor indicate that she only performs this duty for 10% of her time. Thus, while she indicates on appeal that her duties include making settlement recommendations, it is clear that this is not the primary focus of her position. In this regard, classification determinations are made based on those duties which are considered to be the primary focus of a position that are performed on a regular, recurring basis. In order to be considered the primary focus of a position, such duties would have to be performed more than 50% of the time. *See In the Matter of Lawrence Craig and Louis Muzyka* (CSC, decided February 11, 2009) (Commission determined that Police Sergeants who were serving in an acting capacity of Police Lieutenant less than 50% of the time should not be reclassified as Police Lieutenants). Therefore, since the record evidences that she performs settlement recommendations less than 50% of the time, and all of her other duties can be properly performed by a Claims Investigator 1, her position is properly classified as a Claims Investigator 1.

Additionally, the fact that some of Francis' assigned duties may compare favorably with some examples of work found in a given job specification is not

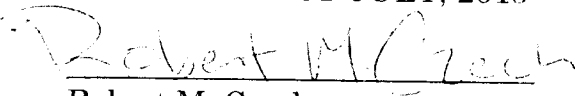
determinative for classification purposes, since, by nature, examples are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level which is ordinarily performed. For purposes of determining the appropriate level within a given class, and overall job specifications purposes, the definition portion of the job specification is appropriately utilized. Accordingly, a thorough review of the information presented in the record establishes that Francis' position is properly classified as a Claims Investigator 1, and she has not presented a sufficient basis to establish that her position is improperly classified.

ORDER

Therefore, the Civil Service Commission concludes that the proper classification of Rosina Francis' position is Claims Investigator 1.

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 15th DAY OF JULY, 2015


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: Rosina Francis
Kenneth Connolly
Douglas Ianni
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625-0313
(609) 292-8189

Robert M. Czech
Chair/Chief Executive Officer

April 10, 2015

Ms. Rosina Francis
Department of the Treasury
Division of Risk Management
20 West State Street, 6th Floor
PO Box 620
Trenton, New Jersey 08625-0620

**RE: Classification Appeal - Claims Investigator 1
As Log# 10140438, Position# 068238, EID# 000320077**

Dear Ms. Francis:

This is to inform you, and the Department of the Treasury, of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted and a telephone audit conducted with you, and your immediate supervisor Peter Ramos on November 17, 2014.

Issue:

You are appealing that your current title of Claims Investigator 1 (P16) is not consistent with your current assigned duties and responsibilities. You contend that a title of Claims Investigator 2 (P20) is an appropriate title for your position.

Organization:

Your position is located in the Department of the Treasury, Division of Risk Management. You report directly to Peter Ramos, Claims Investigator 4 (S27), and you do not possess supervisory responsibility.

Ms. Rosina Francis

Page 2

April 10, 2015

Finding of Fact:

The primary responsibilities of your position include, but are not limited to the following:

- Interpreting New Jersey Tort Claims Act, Title 59 et seq., immunities and/or conditions as outlined in determining their application pertaining to a given case and/or applying appropriate negligence, tort, and/or contract law where applicable.
- Analyzing and/or interpreting contracts from various State Agencies and/or resolving concerns of indemnification, contributory negligence and/or liability of the State as well as potential defendants in a given case.
- Obtaining information and/or documentary evidence from State Agencies, Attorneys, witnesses and/or various other sources in order to defend the interests of the State of New Jersey's Departments and/or Agencies.
- Interviewing witnesses, claimants and/or other State personnel in order to gather the necessary facts for a claim.
- Preparing clear, sound and/or accurate file notes of claim matters containing findings, conclusions and/or recommendations including preparing case analysis for management review so as to avoid potential trial and/or litigations costs.
- Preparing cases for supervisory review for referral to the Division of Law for handling.

Review and Analysis:

Your position is currently classified by the title, Claims Investigator 1 (P16-56372). The definition section of the job specification for this title states:

"Under the close supervision of a Claims Investigator 3, Claims Investigator 4, or other supervisory official in a state department or agency, conducts investigations of claims arising from State employee employment-related injuries and disease; accidents resulting in damage to state owned property; and/or third party claims for bodily injury and/or property damage arising from the use or operation of state owned properties and/or the activities of state employees; or assigned to an office location, investigates, evaluates and processes claims arising out of workers compensation, negligence, tort and/or claims for ownership of abandoned real and personal property accrued

Ms. Rosina Francis

Page 3

April 10, 2015

to the state, other claims involving state employees and/or state owned property; as well as other types of negligence or tort claims made against the state; does related work as required."

You contend that the title Claims Investigator 2 (P20-56373) is an appropriate title for your position. The definition section of the job specification for this title states:

"Under the limited supervision of a Claims Investigator 3, Claims Investigator 4, or other supervisory official in a state or local government department or agency, conducts the more complex and/or sensitive investigations and evaluations; recommends settlements or payment of claims arising out of workers compensation, negligence, tort and/or claims for ownership of abandoned real and personal property accrued to the state, other claims involving state/local employees and/or state/local owned property, as well as other types of negligence or tort claims made against the state; may provide guidance and instruction to investigative and other staff involved in the work of the unit; does other related duties."

The Examples of Work include of this title include: processing assigned cases from the onset to payment of the claim and recommending settlements in accordance with prescribed policies and/or limits. Incumbents classified as a Claims Investigator 2 conduct the more complex and/or sensitive investigations and evaluations.

A review of your assigned job duties and responsibilities finds that the primary function of your position is to investigate tort claims and obtain information pertinent to Title 59 statutes. Additionally, during the audit, you mentioned that you are not tasked with making settlement recommendations. This was also confirmed by your immediate supervisor at the time of the audit.

The preponderance of the duties and responsibilities that you perform are significantly descriptive of the tasks assigned to the title, Claims Investigator 1 (P16-56372).

Ms. Rosina Francis

Page 4

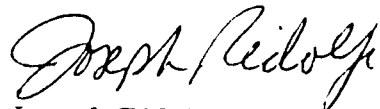
April 10, 2015

Determination:

Based upon the findings of fact above, it is my determination that the assigned duties and responsibilities of your position are properly classified by your current title Claims Investigator 1 (P16-56372). Therefore, the classification of this position will remain unchanged.

Please be advised that in accordance with *N.J.A.C.* 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in cursive script, reading "Joseph Ridolfi".

Joseph Ridolfi, Team Leader
Agency Services

JR/rmd

c: Joanne Pascucci, Manager, Department of the Treasury