

CSC

B-44



STATE OF NEW JERSEY

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

In the Matter of Sheila Hart,
Department of Environmental
Protection

Classification Appeal

CSC Docket No. 2015-1722

ISSUED: JUL 15 2015 (HS)

Sheila Hart appeals the attached decision of the Division of Classification and Personnel Management (CPM),¹ which found that her position with the Department of Environmental Protection (DEP) is properly classified as a Clerk. She seeks a Senior Clerk, Principal Clerk or Secretarial Assistant 3 (Non-Stenographic) job classification in this proceeding.

The appellant received a regular appointment to the title of Clerk on July 23, 2009. In June 2013, the appellant requested a classification review of her position located in the Division of Remediation Management, Remediation Review Element, Office of Inspection and Review. CPM received the request and performed a review of all submitted information, including a Position Classification Questionnaire (PCQ), and performed telephone audits with the appellant and her supervisor, Myrna Campion, Section Chief, Environmental Protection. On the PCQ, the appellant indicated Secretarial Assistant 3 (Non-Stenographic) as her requested title. The appointing authority indicated on the PCQ that the DEP entitlement plan provided that an employee in the title of Secretarial Assistant 3 (Non-Stenographic) must report, at a minimum, to a Manager 4, a Bureau Chief. CPM's review found that the appellant: provided general information using the New Jersey Environmental Management System (NJEMS); forwarded the more complicated inquiries to appropriate staff or took messages; provided telephone coverage to the Director's office, to other bureaus and to the entire building after hours; when calls were received regarding the Site Remediation Program, checked NJEMS to

¹ Now the Division of Agency Services.

determine the Licensed Site Remediation Representative assigned to the case or the assigned manager and referred the caller as appropriate; and maintained telephone lists. CPM's review also found that the appellant: opened, sorted and distributed mail; addressed, stamped and mailed envelopes; prepared certified mail and wrapped packages for express mail delivery; made photocopies; typed letters and memos; prepared confidential letters to clients and day care centers regarding fees, fines and delinquent reports; maintained a chronological record of reports, letters and other correspondence; maintained mailing lists; archived records annually; maintained files of Open Public Records Act matters; distributed and sent faxes; ordered and distributed supplies and materials as needed; maintained all purchasing orders and receipts; copied rules and regulations for training classes; distributed payroll checks; scheduled the Section Chief's meetings, including coordinating meeting schedules with attendees; generated the weekly calendar for the Section Chief; notified the Section Chief of upcoming deadlines; prepared the daily agenda for the Section Chief; and, in the absence of the Section Chief, forwarded all calls to the person designated to be in charge and informed the unit as to who had been designated to be in charge. CPM indicated that the appellant's position required close supervision and was mainly responsible for routine and repetitive duties. Based on the foregoing, CPM found that the preponderance of the appellant's assigned duties and responsibilities were commensurate with the title of Clerk, the title she currently holds. However, CPM also noted that since a Clerk was not expected to regularly maintain daily engagement calendars for the supervisor or coordinate meeting schedules with attendees, those duties were to be removed from the position.

On appeal, the appellant claims that she is not under close supervision and is performing higher-level duties not appropriate to the title of Clerk. In this regard, she argues that her position is better classified as a Senior Clerk, Principal Clerk or Secretarial Assistant 3 (Non-Stenographic). Although a Secretarial Assistant 3 (Non-Stenographic) is assigned to an Assistant Division Director, Bureau Chief or organizational equivalent, the appellant contends that her supervisor is functioning as an "acting" Bureau Chief and that it is not her fault if her supervisor has not yet been given that title. The appellant maintains that her workload has recently increased, provides a list of her current duties and claims that the duties that CPM indicated should be removed, *i.e.*, maintaining her supervisor's calendar and scheduling meetings, have been reassigned to her out of necessity. In addition, the appellant states that she possesses over 14 years of clerical and administrative experience and has also worked as a "Bureau Chief Secretary." She argues that her superiors want to promote her and have work they need her to do, but the work would be out-of-title. The appellant states that she recently learned that she cannot apply for positions posted for Secretarial Assistant 3 (Non-Stenographic) as her title of Clerk is not in the appropriate title series.² She adds that she has been trying to

² Civil Service rules allow for the promotion of employees in the noncompetitive division to a related entry level competitive title or related above-entry level competitive title. See *N.J.A.C.* 4A:4-1.1(c)

solve the matter of the classification of her position for years without success and believes her experience does not seem to count.

CONCLUSION

The definition section of the job specification for Clerk states:

Under immediate supervision, performs routine, repetitive clerical work of a varied nature as a beginner at the entrance level of employment which includes a relatively small proportion of difficult tasks; does other related duties as required.

The definition section of the job specification for Senior Clerk states:

Under direction of a supervisory official, does clerical work involving the exercise of independent judgment and containing a relatively large proportion of difficult tasks and/or instructs individuals in the work of a clerical unit; does other related duties as required.

The definition section of the job specification for Principal Clerk states:

Under direction of a supervisory official, performs varied clerical work, predominantly complex in nature, requiring knowledge of department laws, regulations, policies and procedures and frequent exercise of independent judgment, and may take the lead over the work of a clerical unit; does other related duties as required.

The definition section of the job specification for Secretarial Assistant 3 (Non-Stenographic) states:

May be assigned as a secretary to Assistant Division Directors, Bureau Chiefs or their organizational equivalents; does other related duties.

In the instant matter, CPM found that the appellant's position was properly classified by the title of Clerk. The primary focus of the appellant's position was the performance of routine, repetitive clerical work such as opening and distributing mail; making photocopies; answering and referring telephone calls; preparing letters and memos; maintaining records; ordering and distributing supplies; and distributing payroll checks. CPM also found that the appellant's position received close supervision. Further, the appellant's position did not instruct others or take the lead over a clerical unit, which may have warranted a Senior Clerk or Principal

and *N.J.A.C.* 4A:4-2.5(d). While the title of Clerk is a noncompetitive title and the title of Secretarial Assistant 3 (Non-Stenographic) is competitive, the latter title is not a related entry level title or a related above-entry level title.

Clerk classification. In addition, classification as a Secretarial Assistant 3 (Non-Stenographic) was also not warranted. In this regard, Salary Administration Memorandum #9-88, Supplement #1, provides that a Secretarial Assistant 3 (Non-Stenographic) is assigned as a secretary to Assistant Division Directors, Bureau Chiefs or their organizational equivalents. The appellant's supervisor, as a Section Chief, was not entitled to the support of a Secretarial Assistant 3 (Non-Stenographic). While the appellant claims that her supervisor is working as an "acting" Bureau Chief, there is no such designation as an "acting" appointment under Civil Service rules. *N.J.S.A. 11A:4-13* and *N.J.A.C. 4A:4-1 et seq.* provide for regular, conditional, provisional, interim, temporary and emergency appointments. *See In the Matter of Michael Shaffery* (MSB, decided September 20, 2006); *In the Matter of Russell Davis* (MSB, decided August 10, 2005). Accordingly, it would be inappropriate to classify one position on the basis of its reporting relationship to a position that is not filled in accordance with established Civil Service principles. *See In the Matter of Denise Bronson* (CSC, decided May 2, 2012), *aff'd on reconsideration* (CSC, decided December 5, 2012). Moreover, as already noted, the preponderance of the appellant's duties were appropriately determined to be commensurate with those typically performed in the title of Clerk.

Although the appellant presents a list of her duties on appeal and argues that she is not under close supervision, it should be noted that the foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by this agency through an audit or other formal study. Thus, classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature. This agency's established classification review procedures in this regard have been affirmed following formal Civil Service Commission review and judicial challenges. *See In the Matter of Community Service Aide/Senior Clerk (M6631A), Program Monitor (M62780), and Code Enforcement Officer (M00410)*, Docket No. A-3062-02T2 (App. Div. June 15, 2004) (Accepting policy that classification reviews are limited to auditing current duties associated with a particular position because it cannot accurately verify duties performed by employees in the past). *See also, In the Matter of Engineering Technician and Construction and Maintenance Technician Title Series, Department of Transportation*, Docket No. A-277-90T1 (App. Div. January 22, 1992); and *In the Matter of Theresa Cortina* (Commissioner of Personnel, decided May 19, 1993). As such, the appellant's submission of a list of her duties and contention that she is not receiving close supervision, which postdate the audit, do not provide a basis to disturb CPM's decision. However, the appellant may submit a new reclassification request if she believes that the duties of her position have changed.

While the appellant also points to her many years of relevant experience and increased workload, it should be noted that length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as

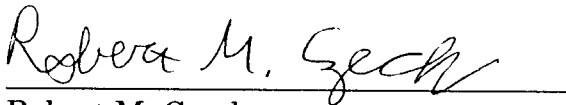
positions, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009). Finally, as to the appellant's claim that her superiors want to promote her and have out-of-title duties they need her to perform, the outcome of position classification is not to provide a career path to the incumbent, but rather to ensure the position was classified in the most appropriate title available within the State's classification plan. See *In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005). Accordingly, a review of the entire record establishes that the appellant's position is properly classified as Clerk.

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 15TH DAY OF JULY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
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Attachment

- c. Sheila Hart
- Deni Gaskill
- Kenneth Connolly
- Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
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Robert M. Czech
Chair/Chief Executive Officer

March 27, 2014

Ms. Shelia Hart
[REDACTED]

Re: Classification Appeal; Clerk; Position# 647323; CPM# 06130281
Employee ID# [REDACTED]

Dear Ms. Hart:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. You requested that your position be audited to determine if you are performing out-of-title work for your title of Clerk (20042, A04). You have indicated that you believe your current work duties are equivalent to Secretarial Assistant 3 (Non-Stenographic) (24531C, A15). Your position is located in the Division of Remediation Management, Remediation Review Element, Office of Inspection and Review. You report directly to Myrna Campion, Section Chief, EP (59985, S30).

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority. Additionally, a telephone audit was conducted with you and your supervisor.

Your position is responsible for opening, sorting and distributing mail; addressing, stamping and mailing envelopes; preparing certified mail, and wrapping packages for express mail delivery. Your position makes photocopies, answers telephones, and provides general information using New Jersey Environmental Management System (NJEMS). You forward the more complicated inquires to appropriate staff or take messages. Your position provides telephone coverage to the Director's office and higher as requested.

Your position types letters and memos. Your position is responsible for preparing confidential letters to clients/day care centers of fees, fines and delinquent reports. Your position keeps records and makes copies for other staff. Your position provides telephone coverage for other Bureaus when the Secretarial Assistants are away from their desks. Your position provides telephone coverage after hours for the entire building. When calls are received regarding the Site Remediation Program, your position checks NJEMS to search for and confirm the

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Licensed Site Remediation Representative assigned to the case or the name of the assigned manager and refers the caller to the appropriate individual.

Your position maintains a chronological record of reports, letters and other correspondence, maintains mailing and telephone lists, and archives records annually. These records include letters sent from the unit and the Child Care Transfer Request Forms. The preparation for archiving the files includes preparing the file for storage, preparing the labels for the boxes, placing the files in the boxes, preparing and maintaining the list of the boxes and their contents for easy retrieval, and making arrangements for the files to be picked up and taken to storage. Your position maintains files of Open Public Records Act (OPRA) matters for the Bureau of Inspection and Review (BIR) and Child Care sections. Your position maintains and retrieves materials when needed, distributes and sends faxes, and orders and distributes supplies and materials for the Bureau when needed. Your position maintains all purchasing orders and receipts.

Your position copies rules and regulations for Bureau training classes, and distributes payroll checks. Your position schedules the Section Chief's meetings, including coordinating meeting schedule with attendees, notifying building security of attendees and making arrangements for attendee parking. Your position generates the weekly calendar for the Section Chief, notifies the Section Chief of upcoming deadlines, and prepares the daily agenda for the Section Chief. When the Section Chief is out of the office, she communicates with your position to establish who is in charge of the unit and your position notifies that individual, and disseminates this information to the unit. Your position forwards all calls to the designated person-in-charge.

The definition section of the job specification for the title Secretarial Assistant 3 (Non-Stenographic) (24531C, A15) states:

May be assigned as a secretary to Assistant Division Directors, Bureau Chiefs, or their organizational equivalents; does other related duties as required.

By way of background, Salary Administration Memorandum (SAM) #9-88, Supplement #1, sets the standards for determining the level of secretarial support assigned to a position. A Secretarial Assistant 3 is assigned as a secretary to Assistant Division Directors, Bureau Chiefs, or their organizational equivalents. This method of designating a position to a Secretarial Assistant title is derived from the premise that as the rank of manager increases, there is a corresponding increase in the responsibilities for the associated secretarial position. Your supervisor, Ms. Campion, does not function as an Assistant Division Director or as a Bureau Chief but instead functions as a Section Chief. As such, Ms. Campion is not entitled to the support of a Secretarial Assistant 3.

The definition section of the job specification for the title, Clerk (20042, A04), states:

"Under immediate supervision, performs routine, repetitive clerical work of a varied nature as a beginner at the entrance level of employment which includes a relatively small proportion of difficult tasks; does other related duties as required."

An incumbent in the title of Clerk requires close supervision and the majority of duties are routine and repetitive in nature. The duties performed by a Clerk may be varied; for example a Clerk may open, sort and distribute the

Shelia Hart
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mail, post data to records, greet visitors, hand out forms, and answer telephones. Duties may also include operating office machines where skill and speed are not factors and simple typing which does not require the skill and speed expected of a fully trained typist. The audit confirms that your position requires close supervision and is mainly responsible for routine and repetitive duties. However, since a Clerk is not expected to regularly maintain daily engagement calendars for the supervisor, and coordinate meeting schedules with attendees, the Appointing Authority is advised these duties should be removed from this position.

The preponderance of duties assigned to your position fall with the scope of the Clerk title.

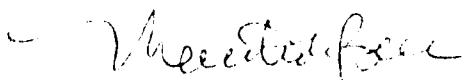
Determination

By copy of this letter, the Appointing Authority is advised that your position is presently and properly classified as Clerk (20042, A04). The Appointing Authority is advised to remove the duties associated with maintaining the supervisor's calendar and scheduling her meetings.

The class specification for Clerk is descriptive of the general nature and scope of the functions that may be performed by an incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of related tasks not specifically listed.

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 Record 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,



Martha T. Bell,
Human Resources Consultant 5
Classification and Personnel Management

MTB/db

C: Robin Liebeskind
Joseph Siracusa