



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Virginia Burks,
Division of Law and Public Safety

Administrative Appeal

CSC Docket No. 2017-29

ISSUED: **NOV 15 2016** (ABR)

The Division of Agency Services (Agency Services), on behalf of the Department of Law and Public Safety, requests that Virginia Burks' out-of-title work experience be accepted to allow her to meet the eligibility requirements for the title of Supervisor, Licensing Unit, Professional Board.

By way of background, Burks was regularly appointed to the title of Principal Clerk Transcriber, effective April 17, 2004. Subsequently, Burks filed a classification appeal, maintaining that her duties were inconsistent with the title of Principal Clerk Transcriber. Agency Services conducted an audit of Burks' position and found that the duties that she performed were consistent with the duties of a Supervisor, Licensing Unit, Professional Board. Agency Services indicated that the effective date of the reclassification would be September 5, 2015.¹

The appointing authority thereafter requested that Agency Services review Burks' credentials to determine if she met the open competitive requirements for Supervisor, Licensing Unit, Professional Board. The requirement for Supervisor, Licensing Unit, Professional Board is four years of experience in processing technical clerical work, including at least two years supervising clerical staff involved in the issuance of licenses and/or permits.

Agency Services determined that Burks did not meet the requirement for the position as she was credited with only ten months of applicable experience. Agency

¹ Agency Records indicate that the appellant's title has not been changed.

Services indicated that although Burks possessed an additional three years and two months of experience, including one year and two months of experience supervising clerical staff involved in the issuance of licenses or permits, that experience would be considered out-of-title work.

In support of its request, the appointing authority describes Burks' duties and requests that her out-of-title experience be accepted to meet the requirement for the subject position. For example, Burks processes applications for initial and renewal licenses for instructors and professional schools engaged in training Homemaker Health Aides for the State of New Jersey; ensures that requirements are met for Training Instructors and Programs in accordance with applicable laws; corresponds with applicants; supervises clerical staff involved in the processing of licenses; conducts performance evaluations; oversees the training of subordinate clerical staff in processing applications; verifies that all data is accurately recorded in the appropriate database; and conducts a final audit over licensure packages before they are sent to applicants. The appointing authority explains that due to business necessity, Burks was assigned higher-level out-of-title duties.

It is noted that primarily performing the duties of a Supervisor, Licensing Unit, Professional Board would be considered out-of-title work for incumbents in the Principal Clerk Transcriber title. A review of the record indicates that there are no existing open-competitive, promotional or special reemployment lists for the title of Supervisor, Licensing Unit, Professional Board.

CONCLUSION

N.J.A.C. 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open competitive requirements 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.

In the present matter, the appointing authority has verified that Burks has been performing duties consistent with the title of Supervisor, Licensing Unit, Professional Board and continues to perform the required duties due to business necessity. Agency Services' classification determination evidences the change in her duties. There is also no dispute that she meets the open competitive requirements for the title at issue, with the consideration of her out-of-title experience, as evidenced by the pre-appointment evaluation conducted by Agency Services. Under these circumstances, good cause has been presented to accept Burks' out-of-title work in order to qualify her for any upcoming promotional examination for Supervisor, Licensing Unit, Professional Board.

ORDER

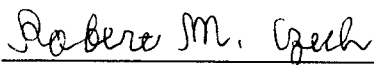
Therefore, it is ordered that this request be granted and Virginia Burks' out-of-title work experience be accepted on a year-for-year basis for a prospective

promotional examination for Supervisor, Licensing Unit, Professional Board. Burks is to provide a copy of this decision with the promotional application that she submits upon examination announcement. In addition, the Division of Agency Services shall also accept applicable and documented out-of-title work experience from all other promotional examination applicants.

It is also ordered that the appointing authority take the necessary steps to effect the appointment of Burks to the title of Supervisor, Licensing Unit, Professional Board effective September 5, 2015, or assign her duties commensurate with her permanent title of Principal Clerk Transcriber. The appointing authority is further ordered to notify the Division of Agency Services within 30 days of the date of this decision as to how it is proceeding in compliance with this decision. Finally, it is ordered that the appointing authority pay the appellant differential back pay from September 5, 2015, until the date she is placed in the appropriate title.

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 10TH DAY OF NOVEMBER, 2016



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