



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jonah Kozma,
Department of Human Services

CSC Docket No. 2016-154

Classification Appeal

ISSUED: NOV 15 2016 (DASV)

Jonah Kozma appeals the attached determination of the Division of Agency Services (Agency Services) that his position with the Department of Human Services is properly classified as an Assistant Head Grounds Worker. The appellant seeks a Superintendent of Institutional Grounds job classification in this proceeding.¹

By way of background, the Civil Service Commission (Commission) previously denied the appellant's request for regular appointment as a Superintendent of Institutional Grounds with the Vineland Developmental Center, Department of Human Services. The appellant had been provisionally appointed pending promotional examination procedures to that title effective March 23, 2013. However, upon certification of his name, the appointing authority terminated his provisional appointment and returned him to his permanent title of Assistant Head Grounds Worker, effective January 11, 2014, citing organizational reasons. The Commission found that the petitioner was not entitled to a remedy since his appointment was provisional and he did not have a vested right to an appointment from the Superintendent of Institutional Grounds (PS8490K) eligible list. Nonetheless, the Commission referred the matter of the appellant's position classification to the former Division of Classification and Personnel Management (CPM)² given the appellant's claim that he was still supervising the grounds department and he was an assistant to no one. See *In the Matter of Jonah Kozma*

¹ The Assistant Head Grounds Worker, Head Grounds Worker, and Superintendent of Institutional Grounds have salary ranges of R13, R16, and S18, respectively.
² CPM is now known as Agency Services.

(CSC, decided July 16, 2014). Upon its review, Agency Services determined that the appellant's position was properly classified as an Assistant Head Grounds Worker.

Specifically, Agency Services found that the appellant is assigned to work at the Vineland Developmental Center and reported to Bruce D. Mondgock, an Engineer in Charge of Maintenance 1.³ As confirmed by the appellant's Position Classification Questionnaire (PCQ), which was signed by the appellant, Mondgock, and the appointing authority on August 27, 2014, October 1, 2014, and November 7, 2014, respectively, the appellant's position has supervisory responsibility over seven Grounds Workers.⁴ Agency Services also found that the appellant's position "assists" in the coordination and oversight of grounds work and oversees, uses, and maintains power equipment. It reviewed the job specification for Assistant Head Grounds Worker and determined that the appellant's primary duties are commensurate with the responsibilities of that title. It also indicated that the Assistant Head Grounds Worker is designated in the "R" bargaining unit, which is considered to be a first level supervisor. Since the appellant performs supervisory duties, Agency Services concluded that the title is appropriate for his position.

On appeal to the Commission, the appellant states that he coordinates and oversees all grounds work himself. His supervisor rarely visits the grounds department and never actually oversees the work being performed. Moreover, the appellant contends that other developmental centers have a Superintendent of Institutional Grounds supervising the grounds department. Vineland Developmental Center is the only institution that an Assistant Head Grounds Worker is in charge of the grounds department. Additionally, the appellant argues that he supervises the operation and maintenance of heavy equipment, such as backhoes, bulldozers, draglines and power shovels, front-end loaders, dump trucks and snowplows, a duty which is not found in the job specification for Head Grounds Worker or Assistant Head Grounds Worker. However, this duty is listed as an example of work for a Superintendent of Institutional Grounds. The appellant notes that Gatier gave him a perfect score of "3-Exceptional" in his interim performance assessment review (PAR) for the September 1, 2014 to August 31, 2015 rating cycle, stating to him that "as far as I'm concerned, you're doing a job that you are not getting paid to do." Mondgock signed the evaluation in agreement. In support of his appeal, the appellant submits his PAR and highlights and compares the duties of his position on the job specification for the three subject titles. He also presents a hearing officer report showing that he represents management for the grounds departments in disciplinary hearings; an e-mail, dated August 7, 2013, regarding a supervisor meeting, reminding supervisors to submit a forecast of

³ The appellant indicates that he now reports directly to Steve Gatier, an Assistant Engineer in Charge of Maintenance 1, and believes that it would be appropriate for Gatier to review his desk audit. The appellant also notes that he never received the information that Mondgock provided in his desk audit for him to refute.

⁴ Agency Services also verified with the appointing authority that the appellant was the rater on the most recent performance evaluations, ending August 2013, of the seven Grounds Workers.

scheduled work for the week which the appellant continues to submit; and information demonstrating that when he is not at work, he still provides instructions to the Grounds Workers. Finally, the appellant notes that the Employee Relations Coordinator (ERC) suggested a hearing be held at the Vineland Developmental Center to determine whether he is supervising the grounds department given that he is now directly supervised by Gatier. The appellant is not opposed to that suggestion since the ERC is no longer under the direction of the Chief Executive Officer who previously rescinded his promotion to Superintendent of Institutional Grounds.

CONCLUSION

The definition section of the job specification for Assistant Head Grounds Worker states:

Under direction of a Head Grounds Worker or other supervisory official in a State college, institution, or department, has charge of the maintenance of grounds; assists in the planning, laying out, supervising, and/or assigning the necessary work; does other related duties as required.

The definition section of the job specification for Head Grounds Worker states:

Under direction of a supervisory official in a State department, institution, or agency, has charge of the maintenance of grounds; does other related duties as required.

The definition section of the job specification for Superintendent of Institutional Grounds states:

Under the direction of a supervisor in a psychiatric hospital, institution, or a State college, has charge of the operation and maintenance of the grounds, gardens, greenhouses, roads, and parking lots; supervises the operation of heavy equipment; does other related work.

Initially, it is noted that classification appeals are generally treated as reviews of the written record. *See N.J.S.A. 11A:2-6(b)*. Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. *See N.J.A.C. 4A:2-1.1(d)*. No material issue of disputed fact has been presented which would require a hearing. *See Belleville v. Department of Civil Service*, 155 N.J. Super. 517 (App. Div. 1978). Accordingly, a hearing in this matter is not warranted.

Titles are assigned to Employee Relations Group (ERGs) based on the classification of the position by this agency. See *N.J.S.A. 11A:3-1*. Each ERG is distinctly defined. The "R" ERG is defined as those titles used in the primary or first level of supervision, and the "S" ERG is used for second level supervisory titles which require an incumbent to supervise positions that are classified by and perform supervisory duties of primary supervisory titles. In other words, the "S" ERG title supervises a supervisor. In the instant matter, there is no dispute that the appellant has supervisory responsibilities. However, the appellant supervises Grounds Workers, which are not supervisors. Consequently, because the appellant is a first level supervisor, his position cannot be classified by the Superintendent of Institutional Grounds title, which is a secondary supervisory title in the "S" ERG.

Nonetheless, the appellant argues that he supervises the operation and maintenance of heavy equipment, such as backhoes, bulldozers, draglines and power shovels, front-end loaders, dump trucks and snowplows, a duty which is found in the examples of work of a Superintendent of Institutional Grounds. However, the fact that some of the appellant's 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. Further, 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 for overall job specification purposes, the definition portion of a job specification is appropriately utilized. As set forth in its job definition, a Superintendent of Institutional Grounds has charge of the operation and maintenance of the grounds, gardens, greenhouses, roads, and parking lots, supervises the operation of heavy equipment, and does other related work. While the appellant contends that he oversees the actual grounds work of the Vineland Developmental Center and supervises the operation of heavy equipment, he is not primarily in charge of the operation and maintenance of all the areas listed. In addition, he asserts that other developmental centers have a Superintendent of Institutional Grounds supervising the grounds department. However, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. See *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). See also, *In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998). Therefore, the appellant has not shown that he performs at the level and scope of a Superintendent of Institutional Grounds.

Rather, a review of the record indicates that the primary duties of the appellant's position fall within the parameters of the definition for Head Grounds Worker, *i.e.*, the position is responsible for being in charge of the maintenance of grounds. The appellant's current title of Assistant Head Grounds Worker does not

accurately reflect his duties, as he is not *assisting* in the planning, laying out, supervising, and/or assigning the necessary work of his unit. He is actually performing those duties as a supervisor. Accordingly, the Commission concludes that Agency Services' determination is not supported by the record and the appellant's position should be reclassified to Head Grounds Worker.

With regard to the effective date, *N.J.A.C. 4A:3-3.9(e)3i* provides that the effective date of implementation shall be in State service, the pay period immediately after 14 days from the date an appropriate Commission representative first received the appeal or reclassification request, or at such earlier date as directed by the Commission. In the appellant's case, the Commission referred the matter of his position classification to CPM on July 16, 2014. However, the record reflects that the appellant was serving in a supervisory capacity as early as March 23, 2013, when he was provisionally appointed as a Superintendent of Institutional Grounds. There is no evidence that he did not supervise the grounds department upon being returned to his permanent title of Assistant Head Grounds Worker, effective January 11, 2014. Agency Services verified with the appointing authority that the appellant was the rater of the seven Grounds Workers in the most recent performance evaluations at the time (August 2013), and his PCQ which was completed by him, Mondgock, and the appointing authority on August 27, 2014, October 1, 2014, and November 7, 2014, respectively, confirmed supervisory responsibility. Under these circumstances, the most appropriate effective date of reclassification to Head Grounds Worker is January 11, 2014.

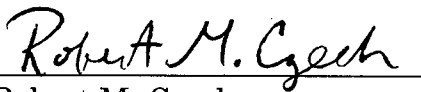
As a final comment, the Commission emphasizes that supervisory experience is defined in the appropriate job specifications for supervisory titles as supervising work operations and/or functional programs and having responsibility for employee evaluation and for effectively recommending the hiring, firing, promoting, demoting, and/or disciplining of employees. A title whose job specification does not contain this clause or a reasonable variation thereof in the examples of work section is not considered a supervisory title. *See In the Matter of Sadie Hamer, et al.* (MSB, decided February 22, 2006). In the instant matter, although the Assistant Head Grounds Worker title is designated in the "R" ERG, the job definition or the examples of work do not indicate the aforementioned supervisory duties. Further, the Head Grounds Worker also has a "R" ERG designation. Thus, a Head Grounds Worker would technically not be able to supervise an Assistant Head Grounds Worker as it would create an inappropriate reporting relationship, although the latter is in a lower class code and is a demotional title right to the Head Grounds Worker title. *See In the Matter of Timothy Stewart* (CSC, decided February 26, 2014) (A supervisor and a subordinate cannot hold titles when they are both in the "R" ERG). Therefore, the Commission's Division of Agency Services has evaluated these subject titles, as well as other "R" designated titles, for appropriate verbiage changes in their job specifications and assignment to the proper ERG.

ORDER

Therefore, it is ordered that this appeal be granted in part, and Jonah Kozma's position be classified as a Head Grounds Worker effective January 11, 2014.

This is the final administrative action in the 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



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence:

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: Jonah Kozma
 Brenda Baxter
 Christina Mongon
 Kelly Glenn
 Records Center



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

May 27, 2015

Mr. Jonah L. Kozma

Subject: Classification Review – Jonah L. Kozma ([REDACTED]); New Jersey Department of Human Services; Division of Developmental Disabilities; Vineland Developmental Center; Position #030134; CPM #12140141

Dear Mr. Kozma:

This is to inform you of the determination for the classification review referenced above. This determination is based upon a thorough review and analysis of all information and documentation submitted including a Duties Questionnaire; Organization Chart and current Performance Evaluation provided by the Appointing Authority.

Issue:

Your permanent title is Assistant Head Grounds Worker (42746/R13). On July 18, 2014, the Civil Service Commission issued a determination denying your request for a regular appointment to the title of Superintendent of Institutional Grounds with the Vineland Developmental Center. However, that determination (CSC Docket #2014-1631) further ordered the Division of Agency Services (formerly the Division of Classification and Personnel Management) perform a classification review to determine the proper title of your position. The proper title for your position is one that would encompass the official duties and responsibilities of your position. The Division of Agency Services agreed a classification review was warranted.

Organization:

Your position is located in the New Jersey Department of Human Services, Division of Developmental Disabilities; Vineland Developmental Center. You report directly to Mr. Bruce D. Mondgock (Engineer In Charge of Maintenance 1, 61594/&29). Your position includes the supervision of seven Grounds Workers.

Findings of Fact:

Under the direction of the Engineer In Charge of Maintenance, the primary responsibility of your position is to perform tasks in the maintenance of the ground of Vineland Developmental Center (VDC). This responsibility includes, but is not limited to:

- Supervision of Grounds Workers – Assigning and overseeing the work of grounds workers; assessing performance; and recommending personnel action (e.g. disciplinary actions) as appropriate.
- Assist in the Coordination and Oversight of Grounds Work – including snow removal; repair of potholes; cutting grass; and maintenance of flowers, shrubs and trees, digging graves and respectful burial of deceased residents.
- Oversight, Use and Maintenance of Power Equipment – including lawn mowers; grass trimmers; snow blowers; stump grinders; front end loader; back hoe; etc...

Review and Analysis:

The current title of this position is that of Assistant Head Grounds Worker (42746/R13). The definition section of the job classification specification for the title of Assistant Head Grounds Worker states:

“Under direction of a Head Grounds Worker or other supervisory official in a state college, institution, or department, has charge of the maintenance of grounds; assists in the planning, laying out, supervising, and/or assigning the necessary work; does other related duties as required.”

An employee serving in this title has the responsibility of maintaining the grounds of an institution by planning and supervising the necessary work involved. The current duties of the position include these tasks.

In addition, the title of Assistant Head Grounds Worker is assigned to the “R” Bargaining Unit. Titles in the “R” Bargaining Unit are considered to be primary, or first-level, supervisor titles. As such, incumbents in these titles supervise by directing the activities of subordinate staff (including the evaluation of employee performance) and assigning the work of the organizational unit. Since your current duties and assignments include the supervision of subordinate staff, the title of Assistant Head Grounds Worker is commensurate to the duties of your position.

Determination:

The review has revealed the current duties and responsibilities assigned are commensurate with the enclosed job specification for the title of Assistant Head Grounds Worker (42746/R13). This specification is descriptive of the general nature and scope of the functions which may be performed by an incumbent in this position. Please note the examples of work are for illustrative purposes and are not intended to restrict or limit the performance of related tasks not specifically listed. The relevance of such specific tasks is determined by an overall evaluation of their relationship to the general classification factors listed in the specification.

Therefore, you are presently and properly classified in the title of Assistant Head Grounds Worker (42746/R13).

According to the New Jersey Administrative Code (N.J.A.C. 4A:3-3.9), the affected employee or an authorized employee representative may appeal this determination within 20 days of receipt of this notice. This appeal should be addressed to Written Record Appeals Unit, Division of

Mr. Jonah L. Kozma
May 27, 2015

Page 3

Merit System Practices and Labor Relations, P.O. Box 312, Trenton, New Jersey 086225-0312.
Please note the submission of an appeal must include written documentation and/or argument substantiating the portions of the determination being disputed and the basis for appeal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark B. Van Bruggen', with a stylized flourish at the end.

Mark B. Van Bruggen
Supervising HR Consultant

Enclosure

MVB

C: Appointing Authority
File

