

B-22



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ruth-Jessica Rosado,
Department of Labor and Workforce
Development

Classification Appeal

CSC Docket No. 2016-2642

ISSUED: **DEC 13 2016** (RE)

Ruth-Jessica Rosado appeals the attached decision of the Division of Agency Services (DAS) which found that her position with the Department of Labor and Workforce Development is correctly classified as Program Technician. She seeks a Supervisor of Licenses and Permits, Workplace Standards classification in these proceedings.

The appellant requested a review of her position as a Program Technician, the title to which she was regularly appointed on November 18, 2013. Her position, located in the Department of Labor and Workforce Development, Division of Wage and Hour Compliance, reports to David Biglin, Senior Executive Service, and supervises two Technical Assistants 1, Labor, a Senior Clerk, and a Principal Clerk Typist. Since the classification review, a Technical Assistant 1 has left the unit.

As described in the attached determination, DAS found that, based on the primary duties of the position, Ms. Rosado's title was properly classified as Program Technician. Specifically, it found that the title Supervisor of Licenses and Permits, Workplace Standards, supervises professional employees who make technical determinations based on review, analysis and evaluation of information. It indicated that the appellant's position is responsible for supervising staff who enter information into databases, but do not make technical determinations. Also, it indicated that the position was not responsible for developing and implementing an accountable program involving the collection of fees from licenses and permits, and the transmission of those fees to the State Treasury, and does not recommend systems programs to be used by the License and Permits section.

On appeal, the appellant argues that her experience and knowledge, as well as increased duties due to a hiring freeze and reduction of employees, warrants reclassification of her position. She states that she oversees all aspects of the Licenses and Permits section which generates approximately three million dollars in revenue yearly. The appellant states that a former Supervisor of Licenses and Permits, Workplace Standards did not possess any college credits, was not involved in the implementation of the Wage and Hour Automated Tracking System (WHATS), and had a staff of five Technical Assistants 1 and Field and Senior Representatives. She argues that this individual had the same responsibilities, with more staff.

The appellant also states that she took the lead in the creation of WHATS and Contractor Registration. She states that she developed and reengineered the old data entry system, collaborating with a group of programmers from an outside software vender to develop WHATS. She then individually trained others on its use. She observes screens in WHATS in order to make changes to accommodate the end user, make the system more efficient, and make changes because of new laws or rules. She indicates that she generates statistical reports, conducts monthly meetings to review workflow and problem areas and to provide resolutions. For Contractor Registration, she states that from its implementation in 2000, she attended meetings with vendors, designed the application, and continues to update the application, provide training, and she registers contractors. The appellant states that she recommended a web application, and was part of a team that developed the web application for contractors to apply online.

As to the duties of her staff, the appellant argues that they make technical determinations. She states that they verify completeness of applications and forms, determine if the applicant is new or renewing, perform data entry, perform searches for data, respond to inquiries and concerns, and generate letters.

In support of the appeal, the Director, Division of Wage and Hour Compliance, confirms the appellant's longevity in the Division, and her titles. He states that she was instrumental in assisting with the creation of various computer screens, and was a lead person in the design and creation of data screens and search criteria. He states that the original supervisor of the section supervised Technical Assistants 1. He also maintains that the Technical Assistants 1 make technical decisions, and that data entry is a minimal duty performed while researching information to make a final determination or correct or add information to the application.

The appellant also provided a lengthy description of her duties involving the creation of WHATS and Contractor Registration, and her ongoing suggestions and

recommendations for improvement. She provided a very detailed description of the work of her subordinates, stating that, as paraprofessionals, they should not have responsibility for issuing licenses or permits, and confirming that she makes these determinations. She argues that their work is complex, they determine whether an application is complete and meets the requirements for registration, and they resolve discrepancies. She maintains that they render independent, technical determinations whether an applicant is in compliance with regulations, and forward these recommendations to her.

As to the prior incumbent in the requested title, the appellant argues that no professional staff reported to her, and the appellant answered questions that this incumbent brought to her. She argues that it is irrelevant if the position was misclassified previously as the Commission authorized the appointment, and that the job specification does not indicate that professional staff must be supervised. She argues that the decision-making performed by her staff is complex and should be professional. She maintains that she would have professional staff if there was no hiring freeze, and that the prior incumbent supervised a Field Representative to help with the volume of work.

CONCLUSION

The definition section of the job specification for Program Technician states:

Under the direction of a supervisor in a State department or agency, has charge of staff assigned to a specific work program or technical unit responsible for reviewing, monitoring and processing specific actions requiring the application of rules, regulations, policies, and/or procedures; does related work.

The definition section of the job specification for the title Supervisor of Licenses and Permits, Workplace Standards states:

Under the general supervision of an Assistant Director or other higher level supervisory official in the Division of Workplace Standards, Department of Labor, supervises the activities and assigned staff responsible for the issuance of licenses and/or permits; does related work as required.

First, it is noted that it is long-standing policy that upon review of a request for position classification, when it is found that the majority of an incumbent's duties and responsibilities are related to the examples of work found in a particular job specification, that title is deemed the appropriate title for the position. The outcome of position classification is not to provide a career path to the incumbents, but rather is to ensure that the position is 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). As noted, how well or efficiently an employee does his or her job, 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).

Also as stated above, regarding a comparison of this position to the position held by a former Supervisor of Licenses and Permits, Workplace Standards, 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 Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998), *affirming In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). See also, *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). The appellant indicated that the former Supervisor of Licenses and Permits, Workplace Standards supervised professional staff, so at some point in time this was not a misclassified position. Further, the remedy for a misclassification of another position is not to perpetuate the misuse of the higher title by reclassifying the appellant's position to that title, but rather, to review the position classifications of the positions encumbered by the named employees to ensure that they are properly classified. See *In the Matter of Stephen Berezny* (CSC, decided July 27, 2011).

The job specification for the requested title does not indicate that professional staff must be supervised, but it does indicate that the staff must have responsibility for the issuance of licenses and/or permits, which is professional work. The appellant's staff are paraprofessionals who ensure that an application is complete before giving it to her for approval. The appellant confirms that *she* is the staff member permitted to register contractors. As such, she is not supervising the activities and assigned staff responsible for the issuance of licenses and/or permits, which is the definition of the title.

Regarding the appellant's work on the development and recommendations for improvement of the data base, it is not uncommon or impermissible for an employee to be assigned duties above or below their current classification so long as the majority of their duties conform with their current title. Typically, classification determinations list those duties which are considered to be the *primary focus* of the appellant's duties and responsibilities that are performed on a regular, recurring basis. See *In the Matter of David Baldasari* (Commissioner of Personnel, decided August 22, 2006). In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series. On the other hand, the Examples of Work portion of a job description provides typical work assignments which are descriptive

and illustrative and are not meant to be restrictive or inclusive. *See In the Matter of Darlene M. O'Connell* (Commissioner of Personnel, decided April 10, 1992). Regardless of the fact that some of the appellant's duties may match the examples of work, the appellant clearly does not perform the work described in the job definition. A holistic view of these duties does not support that the position *primarily* supervises the activities and assigned staff responsible for the issuance of licenses and/or permits.

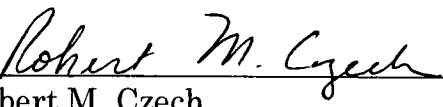
A thorough review of the information presented in the record establishes that Ruth-Jessica Rosado has not presented a sufficient basis to establish that her position is improperly classified as Program Technician.

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 7th DAY OF DECEMBER, 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: Ruth-Jessica Rosado
Mary Fitzgerald
Kelly Glenn
Records Center



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

Robert M. Czech
Chair/Chief Executive Officer

January 14, 2016

Ms. Ruth Rosado
New Jersey Department of Labor and Workforce Development
Division of Wage and Hour Compliance
John Fitch Plaza, 3rd Floor
Trenton, NJ 08611

Re: Classification Appeal – Program Technician (10258, R20), Position # 652500, Log# 07150341, EID # 000363253

Dear Ms. Rosado:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation obtained during and subsequent to the audit conducted October 22, 2015, as well as the information provided by your immediate supervisor, David Biglin, Assistant Director, Senior Executive Service (90752, M98).

Issue:

You are serving permanently (RAP) in the title, Program Technician (10258, R20), Department of Labor and Workforce Development. You contend you are performing duties and responsibilities commensurate with the title, Supervisor of Licenses and Permits, Workplace Standards (55915, R24).

Organization:

Your position is assigned to the Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development. You report directly to David Biglin, Senior Executive Service (90752, M98). You supervise four staff members: Karen Alfred, Technical Assistant 1 Labor (65353); Maria Festa-Miller, Technical Assistant 1 Labor (65353); Ashley Day, Senior Clerk (20043); and Charlita Dixon, Principal Clerk Typist (23234).

Findings of Fact:

The primary function of your position is to supervise the Contractor Registration Unit.

You perform the following assigned duties and responsibilities:

- Supervise Contractor Registration Unit staff.
- Organize and review licenses, permits and certificates. Ensure staff enters applications correctly, certificates are issued and notices are completed in a timely manner.
- Register, revoke and deny contractor licenses, permits and certificates.
- Issue refunds.
- Issue Notices of Intention to Revoke to contractors who have not paid their fines/penalties.
- Assist the web application development team in developing the online contractor registration application, test sample applications and make recommendations for improvement.
- Review, approve and issue contractor registrations, apparel registrations, homework licenses and out-of-state permits.
- Collect money for judgments and issue Warrant of Satisfaction when judgment is paid.
- Create unit procedure manuals for staff.
- Train unit staff.
- Prepare monthly statistical reports for the director (i.e. number of contractors registered, amount of money collected, number of unemployment disability delinquent accounts over \$5,000, etc.).
- Review, revise, and implement unit procedures for improved efficiency.
- Conduct interviews and issue determinations for unresolved Public Contracts, General Enforcement, Apparel Registration assessments.
- Interpret regulations and statutes to answer inquiries regarding licenses, permits and certificates.

Review and Analysis:

Currently, your position is classified in the title, Program Technician (10258, R20). The definition section of the job specification for the title states:

“Under the direction of a supervisor in a state department or agency, has charge of staff assigned to a specific work program or technical unit responsible for reviewing, monitoring and processing specific actions requiring the application of rules, regulations, policies, and/or procedures; does related work.”

Incumbents in this title supervise and direct the technical activities of staff assigned to investigate, identify, and take appropriate action concerning Department/Program record requests. The title, Program Technician, is assigned to the “R” bargaining unit. Titles assigned to the “R” bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the unit, discipline subordinate staff and evaluate staff performance.

You contend your position should be classified in the title, Supervisor of Licenses and Permits, Workplace Standards (55915, R24). The definition section of the class specification for this title states:

“Under the general supervision of an Assistant Director or other higher level supervisory official in the Division of Workplace Standards, Department of Labor, supervises the activities and assigned staff responsible for the issuance of licenses and/or permits; does related work as required.”

Incumbents in this title supervise staff and assist in the planning, organization, implementation, review, and management of the system for the issuance of licenses and/or permits. Incumbents develop, implement, and maintain an accurate and accountable program involving the collection of fees from licenses and/or permits, and the transmission of those fees to the State Treasury. They recommend appropriate system programs, forms, methods and procedures, and evaluate their effectiveness. Incumbents supervise the development and operation of an automated data processing system designed to monitor the status of license and permit applications or renewals and analyze reports from this system to identify method changes to procedures in order to improve effectiveness. They review problems and procedures associated with the eligibility, issuance, suspension, renewal and revocations of licenses and permits and they develop recommendations and methods of resolution. Incumbents establish and provide training and instruction for staff involved in licensing and permitting, and the recording of applications, examinations, fees, and inspection reports. They resolve complaints and give final approval to reinstate licenses or permits which have been suspended, revoked or not renewed. The title, Supervisor of Licenses and Permits, Workplace Standards, is assigned to the “R” bargaining unit. Titles assigned to the “R” bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the unit, discipline subordinate staff and evaluate staff performance.

It is noted titles are categorized as professional, para-professional or non-professional. The primary focus of clerical work is to support functions of an office regardless of the nature of the work done by the organization in which the office resides. Further, given the nature of the work done by a clerical employee and the type of preparation required for clerical jobs, the degree of autonomy and responsibility to meet the definition of "technical" is not always present. See In the Matter of Personnel Management Analyst 2 (PS8711C) (MSB, decided June 14, 1994). The Program Technician title is, i.e., a title requiring at least 60 general college credits or 12 or more specific college credits, with or without a clause to substitute experience. The para-professional titles describe duties that are aiding or supportive of the professional. These titles require less formal training or experience than that normally required for professional status, and they span the gap between clerical or non-technical work, and a professional level of work. Professional work is predominantly intellectual in character, as opposed to routine mental, manual, mechanical or physical work, and it involves the consistent exercise of judgment. It is basically interpretive, evaluative, analytical and/or creative, requiring knowledge or expertise in a specialized field of knowledge. This is generally acquired by a course of intellectual or technical instruction, study and/or research at an institution of higher learning or acquired through an in-depth grasp from cumulative experience. However, there must be thorough familiarity with all the information, theories and assumptions implicit in the chosen field. Persons involved in professional work should be able to perceive, evaluate, analyze, formulate hypotheses, and think in the abstract. Positions are considered professional when the work requires application of professional knowledge and abilities, as distinguished from either the desirability of such application or the simple possession of professional knowledge and abilities. See In the Matter of Lydia Lopez (CSC, decided May 27, 2009).

Both titles are supervisory in nature; however the title, Supervisor of Licenses and Permits, Workplace Standards is a professional level supervisory title and the title, Program Technician is a paraprofessional supervisory title. The professional level of the Supervisor of Licenses and Permits title, requires incumbents to supervise employees who are making technical determinations based on review, analysis and evaluation of information (i.e. supervising staff who approve/deny licenses). You supervise staff whose primary job duty is to enter information into databases. Your subordinates are not primarily responsible for making technical determinations.

The audit revealed you supervise Contractor Registration Unit staff, create unit procedure manuals, and train staff. You review revise, and implement unit procedures for improved efficiency of the Contractor Registration process. You organize, review, approve and oversee the processing and issuance of licenses, permits and certificates. You explain and interpret licensing and renewal provisions of regulations and statutes. You assist the web application development team in developing the online contractor registration application, test sample applications and make recommendations for improvement. You supervise staff whose primary job duty is to enter information into databases. Your subordinates are not primarily responsible for making technical determinations. Additionally, you are not responsible for developing and implementing an accountable program involving the collection of fees from licenses and permits, and the transmission of those fees to the State Treasury, and you do not recommended systems

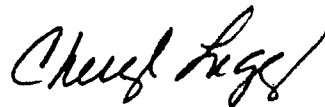
programs to be used by the License and Permits section. The duties and responsibilities assigned to you compare most favorably with the definition section and the examples of work of the class specification for the title, Program Technician (10258, R20).

Determination:

It is our determination the appropriate classification of your position is the title, Program Technician (10258, R20). By copy of this letter the Appointing Authority is advised that your position is presently and properly classified.

An appeal of this decision may be filed within twenty (20) days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments that you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Written Records Appeal 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,



Cheryl Legg, Human Resource Consultant 5
Division of Agency Services

CL:kk
c. Mary Fitzgerald
Nick Kanellis
File