



On appeal, the appellant presents that the University states that the 62-foot Grove Lift that he uses to perform daily work is not considered heavy equipment. However, he asserts that based on the job specification for Heavy Equipment Operator, this equipment is deemed as heavy equipment, which is acknowledged by his supervisor. The appellant indicates that all his assignments deal with heights that involve lifts. Further, while the University stated that is not uncommon for an employee to occasionally perform higher-level duties, he asserts that it is uncommon to perform out-of-title work because under his collective negotiations agreement, he can only perform out-of-title work that is incidental and should be avoided. The appellant submits photos to demonstrate that he uses heavy equipment. He highlights that using heavy equipment at extreme heights is not indicated under the job specification for Senior Repairer. He contends that he has been performing out-of-title work for the past 10 years. The appellant submits his PCQ where he indicated that he spent 100 percent of his time using lifts.

### CONCLUSION

*N.J.A.C. 4A:3-3.9(e)* states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the Senior Repairer (O14) job specification states:

Under the direction of a Crew Supervisor or other supervisor in a State department, institution or agency, performs the basic maintenance, repair or mechanical adjustment work involved in varied types of buildings, building facilities, building utilities and/or furniture; takes the lead over lower level repairers and helpers; does related work as required.

The definition section of the Heavy Equipment Operator (C16) job specification states:

Under supervision of a Master Mechanic, Regional Equipment Supervisor, Transportation, or other supervisory official in a state department, institution, or agency, operates large concrete mixers, large cranes, gasoline shovels, tractors, trailers, and other large, heavy, mechanized highway construction and maintenance equipment; does other related duties as required.

In this present matter, a review of the job specifications indicates that Heavy Equipment Operator is not simply a higher-level title for the Repairer title series. Instead, it is in a different title series that involves the use of heavy equipment while the use of such equipment is not a Senior Repairer duty. Further, it is noted that the record indicates that the appellant does operate lifts, and when using lifts, he does work at heights, which are Heavy Equipment Operator duties.

However, there is a dispute regarding how much time the appellant spends operating heavy equipment. On the appellant's PCQ, he indicated that he spends 100 percent of his time performing duties related to the use of lifts. On appeal, the appellant states that he uses lifts daily. However, during McCarthy's interview, the appellant's immediate supervisor, he stated that he does not agree with the appellant that his primary duties consist of using lifts. Instead, he indicated that the appellant used lifts "as needed," the appellant completes other repair work, and the appellant does not operate lifts for the majority of his time. Similarly, on the appellant's PCQ, McCarthy stated that there is a large percentage of time where the appellant performs duties where work is not performed at elevated heights or with heavy equipment. Additionally, a review of the appellant's work orders that he completed between 2021 and November 2022, indicates that the vast majority of his work order repairs did not require the use of a lifts or heavy machinery. Therefore, when reviewing the totality of the record, the appellant spends most of his time performing Senior Repairer duties while not operating lifts or working at elevated heights and only performs such Heavy Equipment Operator duties on an "as needed" basis. Further, it is noted that under Civil Service, the assignment of out-of-title duties on an "as needed" basis is not improper. *See In the Matter of Patricia Anderson, et al.* (Commissioner of Personnel, decided June 27, 1996). Therefore, the record indicates that the appellant's position is properly classified as a Senior Repairer. However, if the appellant's use of lifts or other heavy equipment increases to where such duties take the majority of his time, he can request another classification review at that time.

### **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  
THE 4<sup>TH</sup> DAY OF AUGUST, 2023

*Allison Chris Myers*

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