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STATE OF NEW JERSEY

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

In the Matter of Rosemarie Benoit,
Department of Human Services

CSC Docket No. 2015-152

Layoff Appeal

ISSUED: OCT 23 2014

(RE)

Rosemarie Benoit, a former Senior Human Services Technician with the Department of Human Services (DHS), Greystone Park Psychiatric Hospital, appeals her lateral displacement in lieu of layoff to the title Human Services Technician.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles, including employees of Division of Developmental Disabilities, due to the closure of the North Jersey Developmental Center, effective June 27, 2014. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that Ms. Benoit was displaced from her Senior Human Services Technician position to a Human Services Technician position.

On appeal, the appellant argued that a "published document" listed her seniority as 14 years, 11 months but that her Reduction in Force Final Notice stated that her seniority was 15 years, 5 months and 24 days. She stated that, as such, there was an erroneous calculation in her seniority. Additionally, she stated that she joined a pool of over 300 other Senior Human Services Technicians of whom she had the most State seniority, and that she served nine years in the same unit and floor. She stated that another employee, who she does not identify, replaced her but has less seniority than she does. She requested a position in the unit and the floor in which she had been working.

Civil Service Commission (Commission) staff responded that the appellant's seniority was correctly determined to be 15 years, 5 months and 24 days, there are many other Senior Human Services Technicians with more seniority than her in the Department, and that no shifts were guaranteed, as this is the prerogative of the agency and is not a factor in layoff determinations.

The appellant responded that the Department of Human Services used 14 years, 11 months for her seniority in the layoff which caused her demotion and a change in shift. She states that she should not have been demoted due to her seniority, and that individuals hired after her were demoted and did not have their shift change. She states that her medical conditions are exacerbated by working at night, and that her agency claims that the shift change is a result of direction from the Commission.

CONCLUSION

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. *See Malone v. Fender*, 80 N.J. 129 (1979). For this layoff, the seniority used in the layoff was reported on the Declaration Forms by the Lay-off Board and was also recorded on the Reduction in Force Final Notice. On both forms, and in the seniority listing of the DHS employees, the appellant's seniority is listed as 15 years, 5 months and 24 days. The appellant's continuing insistence that her seniority was recorded as 14 years, 11 months is incorrect. Additionally, the appellant was informed that shift work assignment is the prerogative of the agency, and it is reiterated that this is not a factor in layoff determinations. The Commission has no input in this area. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

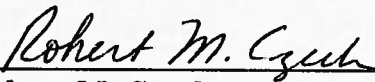
Thus, a review of the record fails to establish an error in layoff process and the appellant has not met her burden of proof in this matter.

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 22nd DAY OF OCTOBER, 2014**



**Robert M. Czech
Chairperson
Civil Service Commission**

**Inquiries
and
Correspondence**

**Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312**

**c: Rosemarie Benoit
James Frey
Christina Mongon
Kenneth Connolly
Joseph Gambino**