

indicates that she would have selected another county if she knew she could not obtain a position in her current location.

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.

In this case, the appellant challenges the bumping rights of a Program Technician to the titles Technical Assistant Personnel, Personnel Aide 1 and Personnel Aide 2. There are three types of displacement rights, two of which are title rights, lateral and demotional; the third right is a demotional right to a previously held title (or prior held right). Lateral and demotional title rights are determined in accordance with *N.J.A.C. 4A:8-2.1 et seq.* It is well established in previous administrative and court decisions that the use of occupational group categorizations, as recognized by the United States Department of Labor, was a reasonable and objective method for identification of job similarities as required in *N.J.A.C. 4A:8-2.1* title rights criteria and the same criteria were uniformly applied to all titles in the State Classification Plan. Further, the use of the Dictionary of Occupational Titles (DOT) by the CPM as a starting point for the development of 39 broad occupational groupings to enable the appropriate categorization of State job titles was appropriate and these were customized to account for the uniqueness found in occupations in the Merit System. Moreover, Civil Service Commission (Commission) job specifications were used as the basis for the categorization into occupational groups. See *In the Matter of State Layoff Title Rights*, (Commissioner of Personnel decided May 24, 1996), affirmed, A-5847-95T3 (App. Div. Dec. 9, 1997).

Further, for purposes of layoff rights and determinations, CPM operationalized the *N.J.A.C. 4A:8-2.1* layoff title rights criteria. The layoff rights determination process was automated so as to ensure objectivity and uniformity in the process of determining rights which were determined based on a comparative analysis of Commission job specifications and application of *N.J.A.C. 4A:8-2.1(a)* and (b) title rights criteria. Pursuant to *N.J.A.C. 4A:8-2.1(b)*, a demotional title right means the right of a permanent employee to exercise displacement rights as set forth in *N.J.A.C. 4A:8-2.2* against an employee in the layoff unit holding a title determined to be lower than, but related to, the affected title of the employee. Demotional title rights are determined by the Commission based on the following criteria:

1. The title(s) shall have lower but substantially similar duties and responsibilities and, where applicable, a lower class code;

2. The education and experience requirements for the title(s) shall be similar and the mandatory requirements shall not exceed those of the affected title;
3. Special skills, licenses, certification or registration requirements shall be similar and not exceed those which are mandatory for the affected title; and
4. Any employee in the affected title with minimal training and orientation could perform the duties of the designated title by virtue of having qualified for the affected title.

In order to categorize functions or duties which are substantially similar, based on the Definition and Examples of Work portions of job specifications, all titles were slotted into one of the 39 occupational groups as recognized by the U.S. Department of Labor in the Dictionary of Occupational Titles which categorizes all known jobs. Titles were further categorized into occupational families within the occupation groups based on the differences in main functions of titles in each group after further review of job specification language. Thus, occupational groups and families are utilized as a means of categorizing titles based on assigned duties and responsibilities.

The requirements for the Program Technician title are successful completion of sixty semester hour credits at an accredited college and three years of experience in work involving the application of rules, regulations, procedures, or policies in the processing of technical actions in a specific program area. The requirements for the Technical Assistant Personnel are completion of sixty semester hour credits from an accredited college or university, and two years of experience in technical, clerical personnel work involving the application of procedural rules, regulations, policies, and procedures. Both titles are in the same occupational group and family, and have similar education and types of experience. The Technical Assistant Personnel title may only be used in an unrepresented environment, *i.e.*, a personnel office, and the Program Technician title may not be used in a confidential, unrepresented environment as there are other titles for such purposes. Nevertheless, the type of environment in which the title is used is not a factor in the analysis of criteria for title rights. The Technical Assistant Personnel title is an appropriate demotional right for the Program Technician title. Additionally, the appellant's arguments regarding demotional rights to Personnel Aide 1 and Personnel Aide 2 from Program Technician have no bearing on the determination of her title rights nor do they impact on her situation. As such, these arguments are moot and need not be addressed herein.

As to location, all employees, including the appellant, were advised of the layoff and final interview processes and provided with resources to answer questions before the layoff was administered. Each received a 45-day Layoff Notice. Impacted employees were required to attend a general employee briefing, and union

representatives were invited to attend, at which the layoff procedure was explained. Next, employees attended a Declaration Form session, which may or may not have occurred at the same time as the general briefing. Each employee received a Declaration Form, which provided information such as what the employee would accept as a layoff right, preference in location, number of working hours and re-employment rights. They were provided with instructions on how to fill out the Declaration form, which included preferences, and they were shown maps of the State indicating agency locations. They were told to review geographical locations, travel distances, transportation options, and lowest salary requirements. When they were given the information regarding their specific title rights, they expressed their choices in priority order of most desirable to least desirable. This was well in advance of the final interview. All employees were informed that they must make their decision regarding location by county. The appellant indicates that the individual providing the presentation at the meeting was unaware of this issue and told employees they could choose a location by municipality. She explains that the presenter was corrected by human resource staff who indicated that employees must make selections by county. This was an appropriate correction, and if the individual providing the presentation indicated that employees could select locations by municipality, this was in error.

The appellant was provided the same opportunity as every other employee, that is, she was required to select acceptable job locations by county. That she was aware of this is evident in section F on the declaration form, where each county is listed. This form was properly completed by the appellant, and to have entered municipalities as acceptable job locations would have been incorrect. Employees were informed that they were to make their decisions ahead of time and be prepared to provide their final decision when called for a final interview. The appellant was given the same opportunity as every other impacted employee during the final interview. It is noted that the appointing authority had the option to place the appellant in any vacancy in the selected county, and they may have selected the vacant position for which the need was greatest. The appellant may ask her human resource officer for a reassignment to another location, but he or she is under no obligation to grant the request. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

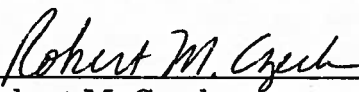
Thus, a review of the record fails to establish an error in layoff process and the appellant has not met her burden of proof in this matter.

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 17th DAY OF SEPTEMBER, 2014



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