

CSC
B-81



STATE OF NEW JERSEY

In the Matter of Angela Witcher,
Department of Environmental
Protection

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2013-754

Classification Appeal

ISSUED: **MAR 06 2015** (EG)

Angela Witcher appeals the attached decision of the Division of Classification and Personnel Management (CPM) that the effective date of the reclassification of her position from Geographic Information Specialist 1 to Manager 4, Environmental Protection, Technical/Scientific/Engineering was May 19, 2012. She seeks a February 26, 2011 effective date.

By way of background, the appellant is an employee of the Office of Information Resources Management, Bureau of Geographic Information System and Ambient Data, Department of Environmental Protection. Pursuant to a Civil Service Commission (Commission) decision,¹ CPM was ordered to perform a position classification review of the appellant's position. CPM then issued its final determination on August 10, 2012, finding that the appellant's position was to be reclassified to Manager 4, Environmental Protection, Technical/Scientific/Engineering, effective May 19, 2012, and she should be deemed to have been serving provisionally in the title pending promotional examination procedures. The appellant subsequently received a regular appointment to Manager 4, Environmental Protection, Technical/Scientific/Engineering on April 25, 2013.

On appeal, the appellant does not dispute the classification of her position, but she contends that the effective date of reclassification is incorrect. She asserts that she has been performing the job duties of the subject title since February 26,

¹ See *In the Matter of Harry Chen* (CSC, decided January 11, 2012).

2011. In support of this contention, the appellant submits an email dated February 15, 2011 indicating that the appellant was being placed in an acting capacity in the Manager 4 title effective February 26, 2011. Further, the appellant submits an email indicating that she was offered said position on February 22, 2011 and that she accepted the offer. These emails also indicate that pursuant to Civil Service rules, the appellant had to serve in an "acting capacity" before she could submit for compensation and that this paperwork would be submitted at the completion of the six month acting period. Therefore the appellant asserts that her effective date in the Manager 4 title should be February 26, 2011.

The appointing authority, despite being provided the opportunity, did not provide any arguments or evidence for the Commission to review.

CONCLUSION

N.J.A.C. 4A:3-3.9(f)1 provides, in pertinent part, that in State service, when a classification appeal is upheld, the effective date of implementation shall be the pay period immediately after 14 days from the date this agency received the appeal or reclassification request, or at such earlier date as directed by the Commission. The Commission has held that while the controlling provision provides that an earlier effective date may be set, this procedure is judiciously applied only to cognizable claims. *See In the Matter of Stephen Mroczki* (Commissioner of Personnel, decided February 13, 1996).

In the instant matter, the appellant requests a February 26, 2011 effective date of reclassification. She submits emails indicating that she was placed in an acting capacity in the Manager 4 title beginning on February 26, 2011. The appointing authority has not disputed these facts. In reviewing this matter, the Commission is unclear as to what Civil Service rules the appointing authority is referencing regarding the acting capacity and the six month waiting period. In fact, acting appointments are **not** recognized under Civil Service rules. Moreover, in *Chen, supra*, the Department of Environmental Protection was ordered to immediately discontinue the use of acting positions, or it would be subjected to fines or other penalties pursuant to *N.J.A.C. 4A:10-2.1*. Therefore, given the specific facts and circumstances of this matter and in the interests of equity, sufficient cause is present to assign an effective date of February 26, 2011, to the appellant's reclassification to the title of Manager 4, Environmental Protection, Technical/Scientific/Engineering. It is noted that the appellant's record shall reflect a provisional appointment pending promotional examination procedures to Manager 4, Environmental Protection, Technical/Scientific/Engineering effective February 26, 2011. Her regular appointment of April 25, 2013 shall remain the same. Moreover, the appointing authority shall compensate the appellant with differential back pay from February 26, 2011 to May 19, 2012. Finally, as

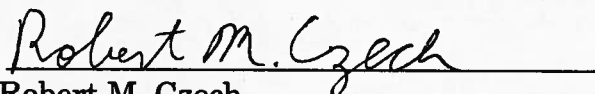
previously directed, the Department of Environmental Protection is reminded to refrain from the use of acting positions.

ORDER

Therefore, it is ordered that this appeal be granted and the effective date of Angela Witcher's reclassification to Manager 4, Environmental Protection, Technical/Scientific/Engineering be changed to February 26, 2011. It is further ordered that the appellant receive differential pay from February 26, 2011 to May 12, 2012.

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
THE 4TH DAY OF MARCH, 2015



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

Attachment

c: Angela Witcher
Deni Gaskill
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P.O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

August 10, 2012



Ms. Debra A. Ewalt
Department of Environmental Protection
Division of Human Resources
P.O. Box 420 Mail Code 440-02
Trenton, New Jersey 08625-0420

Dear Ms. Ewalt:

This is to inform you and the incumbent, Angela Witcher, of our determination concerning the classification review of position number 083745, Geographic Information Systems Specialist 1. Our review involved a detailed analysis of the Position Classification Questionnaire completed by Ms. Witcher, and signed by her supervisor, Peter Tenebruso, Manager 1, Environmental Protection.

Issue:

Ms. Witcher's permanent title is Geographic Information Systems Specialist 1. According to the organizational structure of the Office of Information Resource Management, Ms. Witcher serves in an "acting" capacity as Manager 4, Technical, Scientific, Engineering. This classification review was conducted as a result of a Commission order.

Organization:

Ms. Witcher is assigned to the Office of Information Resources Management, Bureau of Geographic Information System and Ambient Data. The position reports to Peter Tenebruso, Manager 1, Environmental Protection.

Findings of Fact:

This unit is responsible for working on the goals of the Department of Environmental Protection's strategic plan for information technology. The unit has specific responsibilities for coordinating the information technology efforts of ambient data systems, supporting application

development in conjunction with geographic information systems, and providing network and system development in conjunction with same.

The following functions and tasks are performed:

- Maintains responsibility for organizing and directing the administration and work for an individual program with many projects, and setting objectives and leading the planning process of the Bureau.
- Maintains responsibility for setting the objectives and leading the planning process for the Bureau. This is accomplished by tracking the use of technology to support business needs efficiently, effectively, and as economically as possible.
- Organizes and directs the administration of the Geographic Information Systems and Ambient Data Systems in the Bureau of Geographic Information System (GIS). This includes assigning, supervising, and evaluating the work staff.
- Sets objectives and leads the planning process for the Bureau. This includes high level planning that can incorporate changes to infrastructure to support new technologies such as, works with consultants, staff and DEP GIS users to develop the NJDEP Geospatial Platform Vision. This document serves as an executive guideline and roadmap that will feed the NJDEP GIS Strategic Plan, combining organizational strategy, business architecture and information systems technology to create a blueprint for planning.
- Identifies trends in technology, time, materials and personnel. Identifies important objectives and defines strategies for accomplishing them.
- Integrates complementary initiatives when appropriate and ensures that the Bureau is consistent in the way projects are carried out.
- Assesses the current work load of the Bureau, and documents data analysis and programming shortfalls. Recommended additional position and created a new job description for a new hire. Provides cross-training when required.
- Maintains responsibility for the supervision of work as it relates to projects; allocates and manages resources for system software and data maintenance. This includes analyzing, planning, and implementing new projects, and working with project managers to see that deadlines are set and reached.
- Manages the infrastructure, and monitors and evaluates ongoing service to stakeholders. This includes a review of GIS Help Desk comments, implementing modifications to the

GIS User Group, and tracking the status of data migration in Comprehensive Organizational Monitoring Program & Assessment Support System (COMPASS).

- Oversees the software and service contracts such as Esri Enterprise Advantage Program (EEAP), insuring deliverable quality is acceptable and that issues which put the schedule at risk are resolved.
- Helped to establish a charter whereby Program Representatives are assigned to ensure adequate representation at each GIS User Group meeting.
- Attends the Geographic Information Coordinator (GIC) meeting at OIT. Geographic Information Coordinators are the lead GIS contacts for each Department in New Jersey. Coordination within this group sets the framework for large scale initiatives like the 2012 over flight for aerial photographs and the selection of GIS vendors under State contracts. This information is shared with staff through Bureau and Team meetings.
- Assigns, supervises and evaluates the performance of work staff, including preparing employee evaluations for BGIS staff, communicating expectations and addressing their needs, signing timesheets, determining staffing needs, and recommending personnel actions such as hiring, promoting, disciplinary actions and training.
- Informs staff of policies and procedures such as the proper use of benefit time and the administration's priorities such as the DEP Goals.
- Determines the goals and objectives of the Bureau, including assessing the workload, and considers the Department's geospatial needs in identifying key BGIS objectives. This would include the Emergency Mapping initiative which covers a variety of mapping needs from automated database driven strategies for creating and viewing data to training emergency responders to use simple GIS tools to document events.
- Consults regularly with program staff and managers on requirements, problems, software and data; this is done individually as well as through the GIS Users and Program Representative Groups.

Review and Analysis:

The duties and responsibilities of the position were compared to those described within the class specification for Geographic Information Systems Specialist 1 and the Manager 4, Environmental Protection, Technical/Scientific/Engineering.

The definition section of the specification for the title, Geographic Information Systems Specialist 1, (R28, 03177), states:

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“Under direction of a supervisory official, supervises the work of a Geographic Information Systems (GIS) Unit, and coordinates unit activities with the user community on statistical and geographic information needs and applications; has charge of complex GIS projects involving full responsibility for the implementation of all phases of project(s); or leads GIS projects developed for other agencies and has responsibility for the performance of nondirect staff; does other related duties.”

The Geographic Information Systems Specialist 1 coordinates unit activities regarding statistical and geographic information needs and applications of complex GIS projects. The Geographic Information Systems Specialist 1 has full responsibility for the implementation of all phases of assigned projects. The Geographic Information Systems Specialist 1 spends the majority of his time performing the duties of a Project Manager, which include supervising the work as it relates to projects, and coordinating the activities of staff as related to projects. Your current duties are not commensurate with those of the Geographic Information Systems Specialist 1.

The definition section of the specification for the title, Manager 4, Environmental Protection, Technical/Scientific/Engineering (M32, 64994C) states:

“Under direction of a Manager 2 or Manager 3 or other supervisory official in the Department of Environmental Protection, assigned to a Division specific only to the implementation of scientific, technical, or engineering programs, plans, organizes and directs the work programs, activities, and staff of an assigned Bureau performing complex planning, engineering, administrative, environmental, or scientific activities relative to the area of environmental management; is responsible for resolving specific technical and administrative issues relative to the work activities of the Bureau; does related work as required.”

The Manager 4, Environmental Protection, Technical/Scientific/Engineering coordinates the environmental, technical, and administrative activities and programs for a divisional Bureau and assists in the establishment of standards for performance schedules and priorities for the Bureau. The Manager 4, Environmental Protection (T/S/E) is responsible for setting objectives and leading the planning process for the Bureau by tracking the use of technology to support the business needs efficiently, effectively, and economically. The Manager 4, Environmental Protection (T/S/E) organizes and directs the administration of the program, and assigns, supervises and evaluates the work of the staff by performing employee evaluations, communicating expectations and addressing their needs. The Manager 4, Environmental Protection (T/S/E) administers the annual work plans and agreements relating to the functions and responsibilities of the Bureau while supervising the development of a regulatory strategy consistent with the established state and federal laws, rules and regulations. The

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Manager 4, Environmental Protection (T/S/E) keeps apprised of current activities, technology, problems, and developments on all matters related to the enhancement and management of the State's environmental resources in the Bureau.

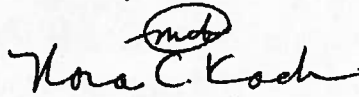
Determination:

Based upon the duties and responsibilities assigned, and the review and analysis cited above, it is my determination that the proper classification of position number 083745, is Manager 4, Environmental Protection, Technical/Scientific/Engineering (M32, 64994C) effective May 19, 2012.

Please note that this classification determination does not imply that Ms. Witcher will meet the eligibility requirements of the title. It is the responsibility of the Appointing Authority to ensure an incumbent meets the eligibility requirements prior to any appointment.

According to New Jersey Administrative Code 4A:3-3.9, the incumbent may appeal this determination within 20 days of receipt of this notice. Appeals should be addressed to the Written Records Appeals Unit, Division of Merit System Practices and Labor Relations, NJ Civil Service Commission, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that 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,



Nora C. Koch,
Assistant Director
Division of State and Local Operations

NCK/mtb/db
C: Angela Witcher
Diane Ogonofski
Rebecca Evans, MSPLR
Ref #02120005