

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

**One Ashburton Place - Room 503
Boston, MA 02108
(617) 727-2293**

VINCENT RUGGIERI,
Appellant

CASE NO: C-15-214

v.

**EXECUTIVE OFFICE OF HEALTH
& HUMAN SERVICES,**
Respondent

Appearance for Appellant:

Vincent Ruggieri, Pro Se

Appearance for EOHHS:

Sheila Anderson, Esq.
Executive Office of Health &
Human Services
600 Washington Street
Boston MA 02111

Commissioner:

Paul M. Stein

DECISION

The Appellant, Vincent Ruggieri, appealed to the Civil Service Commission (Commission) pursuant to G.L.c.30,§49, from the denial of the Massachusetts Human Resources Division (HRD) of his request for reclassification of his position in the Facilities Department of the Executive Office of Health & Human Services (EOHHS). A pre-hearing conference was held at the Commission on November 24, 2015 and a full hearing was held on January 13, 2016. Eight exhibits were introduced in evidence. EOHHS called one witness and Mr. Ruggieri testified on his own behalf.

FINDINGS OF FACT

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

Called by EOHHS:

- Amy Lynch, EOHHS Employment & Staffing Manager

Called by the Appellant:

- Vincent Ruggieri, Appellant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

1. The Appellant, Vincent Ruggieri, has been employed for more than 29 years with EOHHS. He currently serves in the civil service title of Program Coordinator I with the EOHHS Facilities Department (a/k/a OLSOP), a position he has held for approximately fifteen years.

(Stipulated Facts; Exhs. 1, 3 & 7)

2. Mr. Ruggieri works on modular furniture installation and office moves for all agencies within the EOHHS umbrella. According to Mr. Ruggieri's most recent Employee Performance Review (EPR) Form, he performs the following duties in his current position:

Duty 1 – Attend job meetings with agencies to understand scope of work.

1. Meet w/user agency to listen [to] their needs.
2. Work with project manager and/or vendor to schedule site visits to review scope of work.
3. Help in arrangement of minor improvements requested by agencies.
4. Meet vendors to walk thru spaces where job needs to be completed.

Duty 2 – Follow up on modular projects

1. Perform site visits to review scope of work with vendors after the purchase order has been approved.
2. Oversee installation of [sic] disassemble of modular furniture as per agency requests.
3. Help to pull or organize equipment in DTA warehouse.

Duty 3 – Oversee installation or disassemble of Modular furniture

1. Help on installation or disassemble of modular furniture.
2. Direct vendor to complete each project.
3. Keep project notes for projects.
4. Coordinate with IT after vendor is finish [sic] installing modular furniture.
5. Help with the develop [sic] and completion of modular furniture Final punch list in projects.

(Exh. 3; Testimony of Appellant)

3. On or about June 14, 2014, Mr. Ruggieri filed a request for his position to be reclassified from a Program Coordinator I to a Program Coordinator III. In making this request, Mr. Ruggieri described his job as follows:

“Modular furniture: Assist John Burley in all phases of furniture installation from field measurements to final installation. Oversee Maintenance once build-out is complete. Moving: Assist Dave Catanzino with most major moves statewide helping monitor move.”

(Exh. 1)

4. Mr. Ruggieri does not have direct or indirect supervisory authority over any other EOHHS personnel. At times he does oversee and direct the work of outside vendors and contractors who perform the actual manual labor associated with installation and disassembly of modular furniture and inter-office moves within EOHHS. *(Exhs. 1 & : Testimony of Appellant & Lynch)*

5. The Classification Specification for the Program Coordinator Series describes the “basic purpose of this work is to coordinate, monitor, develop and implement programs for an assigned agency.” The duties common to all levels includes, among other things:

1. Coordinates and monitors assigned program activities to ensure effective operations and compliance with established standards.
2. Reviews and analyzes data concerning assigned agency programs to determine progress and effectiveness, to make recommendations for changes in procedures, guidelines, etc. and to devise methods of accomplishing program objectives.
3. Provides technical assistance and advice to agency personnel and others concerning assigned programs to exchange information, resolve problems and to ensure compliance with established policies, procedures and standards.
4. Responds to inquiries from agency staff and others to provide information concerning assigned agency programs.
5. Maintains liaison with various private, local, state and federal agencies and others to exchange information and/or to resolve problems.
6. Performs related duties such as attending meetings and conferences; maintaining records; and preparing reports.

(Exh. 2)

6. The Program Coordinator Series has three organizational levels:

Program Coordinator I is the first level supervisory job in this series. Incumbents exercise direct supervision over, assign work to and review performance of 1-5 personnel.

Program Coordinator II is the second-level supervisory job in this series. Incumbents exercise both direct AND indirect supervision (through an intermediate level supervisor) of 1-5 personnel.

Program Coordinator III is the third-level supervisory job in this series. Incumbents exercise direct supervision of 1-5 personnel AND indirect supervision of 6-15 personnel.

The differences between the Program Coordinator I level and Program Coordinator II and Program Coordinator III include the following:

Program Coordinator II – In addition to the duties common to all positions, incumbents:

1. Provide on-the-job training and orientation for employees.
2. Develop and implement procedures and guidelines to accomplish assigned agency program objectives and goals.
3. Review reports, memoranda, etc. for completeness, accuracy and content.
4. Confer with management staff and other agency personnel in order to determine program requirements and availability of resources and to develop the criteria and standards for program evaluation.
5. Evaluate program activities in order to determine progress and effectiveness and to make recommendations concerning changes as needed.

Program Coordinator III – In addition to the duties performed at the Program Coordinator II level, incumbents:

1. Develop and implement standards to be used in program monitoring and/or evaluation.
2. Oversee and monitor activities of the assigned unit.
3. Confer with management staff and others to provide information concerning program implementation, evaluation and monitoring and to define the purpose and scope of proposed programs.

(Exh. 2; Testimony of Lynch)

7. By memorandum dated October 21, 2014, Mr. Ruggieri was informed that EOHHS found that his position was properly classified as a Program Coordinator I and that his request for reclassification to Program Coordinator III should be denied. *(Exh. 5; Testimony of Lynch)*

8. Mr. Ruggieri appealed the denial of his reclassification to the Massachusetts Human Resources Division (HRD) which affirmed EOHHS's decision and denied his appeal. *(Exh. 6)*

9. Mr. Ruggieri then duly appealed to the Commission. (*Exh. 7*)

APPLICABLE CIVIL SERVICE LAW

G.L.c.30, §49 provides:

Any manager or employee of the commonwealth objecting to any provision of the classification affecting his office or position may appeal in writing to the personnel administrator. . . Any manager or employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it. If said commission finds that the office or position of the person appealing warrants a different position reallocation . . . it shall be effective as of the date of appeal . . .

As a general rule: “The determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification.” Roscoe v. Department of Environmental Protection, 15 MCSR 47 (2002). In order to justify a reclassification, an employee must establish that she is performing duties encompassed within the higher level position the majority (i.e., at least 50% or more) of the time. See, e.g., Pellegrino v. Department of State Police, 18 MCSR 261 (2005) (at least 51%); Morawski v. Department of Revenue, 14 MCSR 188 (2001) (more than 50%); Madison v. Department of Public Health, 12 MCSR 49 (1999) (at least 50%); Kennedy v. Holyoke Community College, 11 MCSR 302 (1998) (at least 50%).

ANALYSIS

As is often true in most classification appeals, Mr. Ruggieri is, by all accounts, a dedicated public servant who works hard at his job. However, reclassification of a position requires proof that the specified duties of the higher title are, in fact, actually being performed as the major part of his current position. Accordingly, the issue before the Commission is limited to that specific question.

The undisputed evidence establishes that Mr. Ruggieri's job duties do not fit the classification specification for a Program Coordinator III. He does not exercise supervisory authority as defined in the Program Coordinator Series specification for all levels and, clearly does not meet the requirement for third-level supervision required at the Program Coordinator III level. Thus, for this reason alone, under the well-established standards for a position reclassification, there is no factual dispute that EOHHS and HRD were correct in denying Mr. Ruggieri's request to be reclassified to the position of a Program Coordinator III. In addition, the evidence presented to the Commission demonstrated that the day-to-day duties Mr. Ruggieri performs do not include the level distinguishing duties of a Program Coordinator III. Rather, all of the duties he performs, and certainly well more than 51% of the time, appropriately fit no higher than the Program Coordinator I level.

Mr. Ruggieri contends that he formerly held another position that is now filled by another employee who holds the job title of a Program Coordinator III, and who only has approximately five direct reports and no indirect reports. He asserts that, when he held that same job, he supervised as many as twenty employees. While that may be true, it is not relevant to the question before the Commission as to whether or not a position held by another employee is misclassified. The sole question before the Commission remains whether or not, in his current position, Mr. Ruggieri, is performing at the Program Coordinator III level.

In sum, EOHHS and HRD correctly determined that Mr. Ruggieri does not meet the skill or supervisory qualifications for a Program Coordinator III and does not perform the duties of a position higher than Program Coordinator I more than half of his time and, therefore, the Commission is not authorized to order that his position be reclassified. While there may be good

reason to contest the logic and equity of various job titles and pay grades vis-à-vis each other within an agency, the proper forum, if any, in which to raise those concerns lies elsewhere.

Accordingly, for the reasons stated above, the appeal of the Appellant, Vincent Ruggieri, under Docket No. C-15-214, is *dismissed*.

Civil Service Commission

/s/ Paul M. Stein

Paul M. Stein
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman [Absent] , Tivnan & Stein, Commissioners) on January 5, 2017.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Vincent Ruggieri (Appellant)
Sheila Anderson, Esq. (for Respondent)
John Marra, Esq. (HRD)