

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 979-1900

ANNE LLOYD,
Appellant

v.

C-17-245

DEPARTMENT OF CONSERVATION
AND RECREATION,
Respondent

Appearance for Attorney:

John F. Carey, Esquire
Carey Law Offices
P.O. Box 290824
Charlestown, Massachusetts 02129

Appearance for Respondent:

Kenneth F. Langley, Esquire
Department of Conservation and Recreation
251 Causeway Street
Boston, Massachusetts 02114

Commissioner:

Cynthia A. Ittleman

DECISION

On November 27, 2017, the Appellant, Anne Lloyd (Appellant), pursuant to the provisions of G.L. c. 30, s. 49, filed an appeal with the Civil Service Commission (Commission), appealing the October 23, 2017 decision of the Department of Conservation and Recreation (DCR or Agency)'s denial of the Appellant's appeal of its decision to deny her request for reclassification from the position of Office Support Specialist I (OSS I) to Program Coordinator I (PC I). On January 16, 2018, the Commission held a pre-hearing conference and a full hearing was held at the Commission on March 28, 2018.¹ The hearing was digitally recorded and a CD was made of

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.00 (formal rules) apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

the hearing and sent to the parties.² The parties filed post-hearing briefs. As explained herein, the appeal is denied.

FINDINGS OF FACT:

I entered three (3) exhibits for the Appellant and twenty-five (25) exhibits for DCR. Based on the documents submitted into evidence and the testimony of:

Called by DCR

- Kimberlee Costanza, Classification and Compensation Specialist, Human Resources, Executive Office of Energy and Environmental Affairs (EOEA);
- Danielle Daddabbo, Classification and Compensation Specialist, Human Resources, EOEA;
- Frederick Yule, Director of Park Operations, DCR, EOEA;
- Martha Gallagher, Business Management Specialist, Program Coordinator III, DCR, EOEA;

Called by Ms. Lloyd

- Appellant Anne Lloyd.

and after taking administrative notice of all matters filed in the case, and pertinent statutes, regulations, policies, and reasonable inferences from the credible evidence, I find that a preponderance of the evidence establishes:

1. At the time of the hearing, the Appellant served as an Office Support Specialist I (OSS I) at DCR. She has worked in her current classification within DCR for 18 years and is seeking to be reclassified to PC I (Stipulated Facts).

² If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with this transcript to the extent that he/she wishes to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion.

2. The summary of the OSS Spec series states, in part, that “[e]mployees in this series perform administrative support functions such as preparing and analyzing correspondence, reports and other materials as needed; arrange meetings with internal and external contacts; respond to inquiries, assist in various office programs and perform related work” (Resp. Ex. 23)

The OSS Spec provides the following examples of duties common to all levels in the series, in part,

provides administrative support to assigned personnel, schedules and attends meetings, conducts research, maintains electronic meeting and event calendars, uses computer software of databases to prepare reports and compile data, creates and maintains database and spreadsheet files, responds to inquiries to internal and external contacts, coordinates programs and activities, ensures that office activities are operational and in compliance with standards, acts as liaison with local, state and federal agencies, screens calls and is responsible for the organization and upkeep of detailed filing systems. (Id.)

3. The summary of the PC Spec series states, in part, that PCs “coordinate and monitor assigned program activities, review and analyze data concerning agency programs; provide technical assistance and advice to agency personnel and others; respond to inquiries; maintain liaison with various agencies” (Resp. Ex. 24) The duties common to all PCs include, in part,

Coordinates and monitors assigned program activities in order to ensure effective operations and compliance with ... standards.

Reviews and analyzes data concerning assigned agency programs in order to determine programs and effectiveness, to make recommendations for changes ... and to devise methods of accomplishing program objectives.

Provide technical assistance and advise to agency personnel and others concerning assigned programs ..., resolve problems and to ensure compliance ...

Respond to inquiries from agency staff and others ... concerning agency programs. Maintain liaison with various private, local, state and federal agencies to exchange information and or to resolve problems.

Performs related duties such as attending meetings and conferences; maintaining records; and preparing reports. (Id.)

4. The Appellant's Form 30 provides the following general statement of her duties and responsibilities, "... include administering all aspects of the Gasboy Fuel Site Monitoring system. They also include maintaining all aspects of assigned accounts payable functions (encumbrances, payments, related account activity), providing technical assistance to DCR vendors, responding to inquiries and performing related work as required." (Resp. Ex. 17)

Her detailed statement of duties include,

administering the Gasboy Fuel Site monitoring system,
reviewing Gasboy generated data and encumbering and processing related accounts payable paperwork,
provides unit director with Gasboy System reports,
performs accounts payable functions utilizing MMARS system,
prepares encumbrance and payment documents for diesel and gas expenses,
provides financial information on request on expenses,
inputs payment and encumbrance documents into MMARS for vendors,
answers phones and directs calls to proper person and sorts mail. (Id.)

5. The Appellant's Employee Performance Evaluation (EPRS) form indicates that her duties included,

Performs accounts payable administrative duties including processing diesel, gasoline, and vehicle related service and commodity encumbrance documents and payment vouchers according to MMARS standards so that vendors receive payment for services and materials.

Coordinates the Gasboy Fuel Site monitoring system which includes but is not limited to making keys and providing PSO Director with numerous reports relative to regional vehicle fuel site activities.

Staffs the Snow Desk during snow events and utilizes the Massachusetts Geographic Information System (GIS).

Answers phones and performs related duties as assigned to support division operations. (Resp. Ex. 7)

6. In her position, the Appellant also prepared spreadsheets and work documents pertaining to maintenance work orders and interacted with vendors to verify work such as “rebooting the system” of fuel delivery had been completed. (App. Tr. 46-47).
7. For a period of time, the Appellant was the only person using the “Gasboy” system, which system tracked the fuel used by certain authorized state personnel. DCR no longer uses the Gasboy system. (Testimony of Appellant).
8. On December 30, 2014, the Appellant submitted a request to appeal her classification. (Resp. Ex. 2). As part of the audit process, she completed an Appeal Audit Interview Guide (Interview Guide), where she listed her job duties as paying bills for park support, scheduling vehicle stickers, maintaining vendor accounts, “autoparts maintenance” on vehicles, working with problem fuel sites, and working with engineering about issues related to fuel. The Interview Guide asked how many times per week the Appellant performed the pertinent duties (not the percentage of her time spent performing the pertinent duties) but she did not provide that information in her Interview Guide. (Resp. Ex. 7).
9. The Appellant characterized the Gasboy program as “equipment” she operated and as a “software program.” (Resp. Ex. 7; App. Tr. 48-7). She asserted that a reason her job had changed was that she “started as accounts payable [and] was given Gasboy program”. (Resp. Ex. 7).
10. The work duties involving the “Gasboy” system included making and logging keys, reviewing Gasboy generated data and encumbering and processing related accounts payable paperwork. (Resp. Ex. . 7). The Appellant’s responsibilities with Gasboy involved 25 vehicles, 2 fuel pumps per location, and 12 locations (Yule, Tr. 281) and communicating with multiple vendors and users of the fleet vehicles. (Resp. Ex. 7). Making each key took

approximately 15 minutes and there were some occasions, but not many, when making keys would last several hours, (Gallagher, Tr. 343) Making keys were not continuous during the day, but would interrupt her “usual” work of accounting, (App. Tr. 51-52). Each morning, after running all night, the Gasboy system could create daily reports. (Gallagher, Tr. 341). The system allowed the Appellant to perform her job duties such as encumbering and processing related accounts payable paperwork. (Resp. Ex. 17; Gallagher Tr. 343).

11. The Appellant believed that utilizing the Gasboy system in the way her job required constituted “running a “program.” (App. Tr. 55:22). She asserted that making keys and using the Gasboy program took up 51% or 53% of her time. (App. Tr. 63; App. Tr. 54). However, there is no documentary evidence in the record that supports this assertion.³
12. The PC I classification is utilized for those positions responsible for coordinating, monitoring, developing and implementing programs for an agency. (Resp. Ex. 9).
13. After DCR expanded the fleet operations in 2012, the DCR fleet maintenance system doubled in size. (Yule, Tr. 248:14). New positions were added, including a PC I position for which the Appellant did not apply. (Yule, Tr. 249, 252).
14. The position for the PC I, Parks Service Operations, Service Desk Coordinator was posted in 2014. (Resp. Ex. 7). As an OSS I, the Appellant performed most of the job duties listed for this position, but did not perform the following:
 - Determine appropriate distribution and dispatch work orders to applicable trades’ staff members or contracted vendors, and
 - Review and analyze data concerning Park Support Operations, Facility Administration and Maintenance Information System (FAMIS) and recommend methods/changes in order to improve work methods,

³ The Appellant submitted supportive letters from several state employees expressing gratitude for her work involving the Gasboy system but they did not indicate that she performs the function of a Program Coordinator more than 50% of the time.

determine progress, revise established procedures and/or to provide information to superiors.” (Resp. Ex. 7; App. Tr. 69).

15. DCR began the process of the Appellant’s classification audit on January 3, 2015. (Resp. Ex. 2). The audit process included a review of the Appellant’s Interview Guide. DCR’s Human Resources Officer conducted an interview with the Appellant on March 3, 2017 (Resp. Ex. 7) and considered the Appellant’s supervisor’s written remarks. (Resp. Ex. 8). Human Resources staff compared the information about job duties presented by the Appellant with the specifications of the job and reviewed the Appellant’s Employee Performance Review (EPRS) and Form 30 job description. (Daddabbo, Tr. 180-181).
16. Mr. Yule, the Director of Park Operations and the Appellant’s supervisor, described the Appellant’s job duties as “administrative” and “accounting” in nature. (Yule, Tr. 225, 226; Ex. 8). Mr. Yule, in consultation with the Appellant’s immediate supervisor, Ms. Gallagher, (Yule, Tr. 296:2-6) disagreed with the Appellant’s characterization of her work as stated on the Interview Guide. Mr. Yule wrote,

“I strongly disagree with Anne’s appeal. Anne’s position is 90% accounts payable. Her responsibilities are primarily maintaining account balances, encumbering funds, and MMARS [data system] data entry. Scheduling vehicle stickers are done by the driver through the Fleet service desk and Fleet Response not Anne... Prior to the new Fleet Department, she encumbered and paid for Park Support vehicle repairs and parts. She currently encumbers funds and pays invoices for a small amount of vehicle supplies that are not available through the Fleet Department. One of the vendors Anne handles is Northeastern Petroleum. They have the contract to service the fuel pumps. She has the administrative function of calling Northeastern Petroleum when issues with fuel pumps are called in by a region. She also makes fuel keys when requested. She does send emails to IT and engineering as directed. This work is a small percentage of her time.... Anne does not dispatch any service work, or enter any work orders into FAMIS [system]. This is done by the trained service staff.” (Resp. Ex. 9).⁴

⁴ The letter is dated March 16, 2017. The Appellant received a copy of this letter via email on March 20, 2107. (Resp. Ex. 9).

17. The Appellant's position at DCR-Cambridge Lower Basin was eliminated on March 10, 2017 because of budget cuts. (Resp. Ex. 12). The Appellant began working as an OSS I within DCR, at a different location, on March 20, 2017, after exercising her rights under the civil service bargaining agreement to accept a position at the same title for which she was qualified. (Resp. Ex. 13).
18. DCR denied the Appellant's request for an appeal on March 16, 2017. (Resp. Ex 9).⁵
19. The Appellant appealed DCR's decision to the state's Human Resources Division (HRD), which denied her appeal on October 23, 2017. (Administrative Notice).
20. The Appellant timely filed the instant appeal. (Administrative Notice).

Legal Standard

“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 and shall be entitled to a hearing upon such appeal.... 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.” G.L. c. 30, s. 49.

Applied here, the Appellant must show that she performs the level distinguishing duties of the PC I title more than 50% of the time. *See Gaffey v. Dept. of Revenue*, C-11-126 (July 18, 2011); *see also Ghandari v. Exec. Office of Admin. and Finance*, 28 MCSR 9 (2015) (finding that “in order to justify a reclassification, an employee must establish that he is performing duties encompassed with in the higher level position the majority of the time....”). Further, “[w]here

⁵ The parties stipulated at the prehearing conference that DCR denied the Appellant's reclassification request on March 8, 2017. Respondent's Exhibit 9 states that DCR denied the request on March 23, 2017. The time difference between the two dates does impact the decision.

duties are equally applicable to both the lower and higher titles, although they may be described slightly differently for each title, those types of overlapping duties are not “distinguishing” duties of the higher title.” Saunders v. Dep’t. of Labor Standards, 32 MSCR 413, 415 (2019).

Analysis

The term “running a program” takes on particular significance in determining whether the Appellant is performing the distinguishing duties of the PC I title more than 50% of the time. The evidence presented at hearing highlights the disagreement between the Appellant’s and Agency’s understanding of a “running a program.” The Appellant, believing that utilizing the fuel tracking system Gasboy, was, in effect, being in control of the fuel tracking “program”, argues that this work warrants a reclassification. “Gasboy” is a *system* that tracks fuel; produces reports; tracks data and allows the Appellant to make and log gas keys and allows for encumbering and processing related accounts payable paperwork. Although the Appellant made use of this *system*, she did not coordinate, monitor, develop or implement a *program* for DCR.

Even if utilizing the Gasboy system were considered to be “running a program,” which it is not, the Appellant has not met the burden of showing she performed this duty more than 50% of the time. Her testimony about working in this role more than 50% of the time was not substantiated by the documents in the record. In addition, the detailed testimony of Ms. Gallagher and Mr. Yule clearly undermined the Appellant’s assertion in that regard. In fact, Ms. Gallagher specifically testified that it took approximately 15 minutes to make a key for the fuel pumps and there were few instances when that would occur and there were few occasions when making the keys would last several hours. Further, Mr. Yule’s testimony and written comments in response to the Appellant’s Interview Guide supported Ms. Gallagher’s testimony.

That the Appellant's OSS I position had overlapping job responsibilities and nearly identical qualifications needed at hire as the PC I position posted at DCR in 2014 does not indicate that these are level distinguishing duties of the PC I position. During the time of the first appeal, the DCR was undergoing a reorganization which involved adding more staff to the Appellant's unit. The responsibilities of the additional staff at the PC I level included reviewing and analyzing data concerning DCR's Facility Administration and Maintenance Information System (FAMIS). The Appellant did not work with the FAMIS system and did not analyze data.

In sum, at the time of her reclassification appeal, the Appellant performed her core duties of accounting and utilizing the Gasboy Fuel Site monitoring system to make and log gas keys, review Gasboy-generated data and encumber and process related accounts payable paperwork. These duties represent work that squarely fall within the administrative duties that are generally expected of an OSS I. Her duties of communicating with vendors, answering phone calls, and processing accounts payable paperwork through the Gasboy system fits within the written job functions.

There is no question that the Appellant is a dedicated state employee who has performed her job diligently and effectively for many years and is appreciated for the work that she has performed. However, based on a careful review of all of the evidence, the Appellant did not meet her burden to establish that she performs the duties of a PC I more than half of her time. That the Appellant did not establish that she performed the work of a PC I a majority of the time should in no way be interpreted as critical of the valuable service that the Appellant provides to the Commonwealth.

Conclusion

For all of the above reasons, the Appellant's appeal under Docket No. C-17-245 is hereby

denied.

Civil Service Commission

/s/ Cynthia Ittleman

Cynthia A. Ittleman

Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on March 11, 2021.

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 this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission 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:

John F. Carey, Esq. (for Appellant)

Kenneth Langley, Esq. (for Respondent)