

Decision mailed: 10/25/10
Civil Service Commission *B*

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place – Room 503
Boston, MA 02108
(617) 727 – 2293

R. LEONA THOMAS,
Appellant

v.

C-09-16

UNIVERSITY OF MASSACHUSETTS
AT BOSTON,
Respondent

Attorney for the Appellant:

Matthew D. Jones, Atty.
Massachusetts Teachers Association
Division of Legal Services
20 Ashburton Place
Boston, MA 02108

Attorney for the Respondent:

Chris Groll, Atty.
Director of Labor Relations
Human Resources
University of Mass. at Boston
100 Morrissey Blvd
Boston, MA 02125-3393

Commissioner:

Daniel Henderson¹

DECISION

Pursuant to the provisions of G.L. c. 30 §49, the Appellant, R. Leona Thomas (hereinafter “Appellant”) is appealing the September 4, 2008 decision of the Human Resources Division (hereinafter “HRD”) denying her request for reclassification from the

¹ The Civil Service Commission acknowledges the assistance of legal intern Josiah Weiss in the preparation of this decision.

position of Clerk V to Administrative Assistant II, at the University of Massachusetts at Boston (hereinafter "University"). The Appellant filed a timely appeal at the Civil Service Commission (hereinafter "Commission"). A full hearing was held on March 3, 2009 at the offices of the Civil Service Commission. The hearing was recorded on one (1) audio cassette.

FINDINGS OF FACT

Eleven (11) exhibits, Exhibit 11 being the HRD document packet, and two stipulations of facts were entered into evidence at the hearing. Based on the documents submitted into evidence and the testimony of the Appellant and Victoria Fitzgerald a Compensation Analyst for U Mass. Boston;

I make the following findings of fact:

1. R. Leona Thomas (hereinafter "Appellant") is employed and classified as Clerk V in Faculty Support in the College of Management at the University of Massachusetts at Boston ("University"). (Exhibit 11)
2. The Appellant's functional title is "Faculty Support Staff." (Testimony of Fitzgerald)
3. Thomas has been employed full-time by the University for approximately 10 years and she has been in her present position of Clerk V since May 20, 2007. (Exhibit 11)
4. On or about January 7, 2008, the Appellant appealed her classification as Clerk V to the University's Classification Appeal Committee, requesting that she be classified Administrative Assistant II. (Exhibit 11)
5. The Appellant classifies her specific duties, in her audit guide, as follows:
 - 35% - Assist the Dean, Associate Dean and Faculty on all requests in the area of College of Management's CM Web data requests for reports of Teaching Evaluations.
 - 15% - Assist the Directors of College of Management and Business Communications for all requests in the area of Business Communication exams, reports and registering students.

- 10% - Human Resource application processing.
- 10% - Assisting faculty with course materials.
- 5% - Handling student affairs: changes in grades, course information, student/ faculty disagreements.
- 5% - Maintaining the working conditions of all department equipment.
- 5% - Managing the department's facility repairs.
- 5% - Train and supervise work-study students for the day-to-day department operations.
- 5% - Department liaison to other offices.
- 5% - Communications coordinator between faculty and students. (Stipulation of Facts, Exhibit 4)

6. The Appellant testified that her primary work was the collection of student opinions of faculty for faculty evaluation. The students filled out the same forms with the same questions asked for any class. She checked these forms for completeness and then scanned the forms for compilation. There were 4-5 work-study students in her section. (Testimony of Appellant)
7. When asked to list her subordinates in said interview guide, the Appellant wrote, "work-study students assigned to the faculty support center." (Exhibit 4)
8. The job description for Clerk V is:

SUMMARY OF SERIES:

Incumbents of positions in this series maintain files and records; answer telephones; prepare and mail outgoing correspondence or parcels; prepare correspondence, forms, files, and reports for processing, storage, or forwarding; answer inquiries; operate standard office machines and equipment; and related work as required. The basic purpose of this work is to provide clerical support for an assigned unit or agency.

...EXAMPLES OF DUTIES COMMON TO ALL LEVELS IN SERIES:

1. Files material such as correspondence, reports, applications, claim record cards, etc. in accordance with a prescribed classification system.
2. Answers telephone calls and provides routine information concerning agency services according to established procedures.
3. Prepares standardized forms such as routine slips, receipts, etc. according to detailed procedures.
4. Receives and distributes incoming mail, memoranda, packages, etc. to appropriate individuals within the assigned unit.
5. Retrieves records from files such as correspondence, applications, claim record cards, etc.
6. Locates and withdraws information from records by using electronic data display terminals, searching files in order to respond to inquiries or requests by supervisor.
7. Posts information to logs or records according to prescribed procedures.
8. Operates standard office machines and equipment requiring brief orientation for use such as photocopiers, mimeographs, other copying machines, file retrieval equipment, central console telephone systems, postage meters, microfilm or microfiche viewers or processors, calculators, adding machines, public address systems, paging devices, 2-way radios, binders, hand collators, perforators, folders, shredders, or similar equipment.
9. Review forms, lists, documents, correspondence and/or applications for accuracy and completeness.

Based on assignment, incumbents of positions at this level or higher may also:

1. Perform typing functions in which speed is not essential, such as typing forms, routine correspondence, envelopes, labels, index cards, etc.

DIFFERENCES BETWEEN LEVELS IN SERIES:

Clerk II:

Incumbents of this level or higher also:

1. Maintain records according to established procedures in order to ensure accurate and complete information.
2. Answer inquiries relative to laws, rules, regulations, policies and procedures governing agency services.
3. Make calculations according to prescribed formulae for the purpose of processing documents such as invoices, payments, tax returns, etc.
4. Schedule or arrange for conferences, meetings, interviews, appointments, or similar activities by reserving required facilities, checking the availability of parties involved and notifying appropriate individuals of dates, times and locations to ensure the availability of facility and attendance by appropriate individuals.
5. Prepare requisitions according to standard procedures in order to replenish supplies.
6. Notify appropriate parties, orally and in writing, of information such as meetings, conferences, court decisions, trial cancellations, patient arrivals and discharges, etc.

Based on assignment, incumbents of this position at this level or higher may also:

1. Issue licenses, registration plates, certifications of title, permits, or identification cards by checking applications for conformance with established guidelines, accepting fees, completing required forms and/or operating simply camera and laminating devices to provide applicants with official documentation of licensure.

Clerk III:

Incumbents of this level or higher also:

1. Conduct on-the-job training of assigned employees concerning routine clerical procedures, agency policies, etc.
2. Compile statistical information to be included in reports of agency activities.
3. Proofread typed material for grammatical, punctuation and spelling errors and for proper font, accuracy and completeness.
4. Compose correspondence for routine letters such as requests for information, confirmation of meetings, etc.
5. Operate specialized office machines or equipment requiring training by the manufacturer prior to use.

Based on assignment, incumbents of this position at this level or higher may also:

1. Perform typing functions requiring the ability to produce 35 mailable words per minute, such as letters and memoranda.

Clerk IV:

Incumbents of this level or higher also:

1. Explain provisions and contents of various documents or programs including effective rates, options, eligibility, benefits, etc. to employees and others.
2. Interview applicants for clerical positions and make recommendations to superiors.
3. Prepare and/or process personnel actions such as promotions, appointments, demotions, terminations, transfers and leaves of absence by recording such actions and completing forms for forwarding for approval.

Clerk V:

Incumbents of this level or higher also:

1. Develop, revise and, with approval of supervisor, carry out work procedures, in cooperation with other units of the department to ensure the efficient and effective flow of work.

SUPERVISION RECEIVED:

Clerk V:

Incumbents of positions at this level receive general supervision from administrative or other employees of higher grade who provide guidance on policies and review performance through conferences and reports for effectiveness, accuracy and compliance with agency policies and procedures.

SUPERVISION EXERCISED:

Clerk V:

Incumbents of positions at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 6-15 clerical personnel and exercise indirect supervision (i.e.) through an intermediate level supervisor) over 6-25 clerical personnel.

(Exhibit 1)

9. The job description for Administrative Assistant II is:

SUMMARY OF SERIES:

Incumbents of positions in this series monitor assigned unit activities; confer with agency staff; maintain liaison with others; review and analyze data concerning assigned unit activities; prepare reports; respond to inquiries; compile data; and perform related work as required. The basic purpose of this work is to provide administrative support in connection with assigned unit activities such as office services, records control, agency personnel services, etc.

“...EXAMPLES OF DUTIES COMMON TO ALL LEVELS IN SERIES:

1. Monitors assigned unit activities to ensure effective operations in compliance with established standards.
2. Confers with agency staff in order to exchange information, to coordinate efforts and to obtain information concerning agency program and activities.
3. Maintains liaison with various local, state and federal agencies and others to exchange information, to resolve problems and to coordinate activities.
4. Reviews and analyzes data concerning assigned unit activities in order to improve work methods, determine progress, revise established procedures and/or to provide information to superiors.
5. Prepares reports concerning assigned unit activities in order to furnish required information and to make recommendations concerning procedures, programs and activities.
6. Responds to inquiries in order to provide information concerning assigned unit activities.
7. Performs related duties such as compiling data for use in reporting assigned unit activities.

Based on assignment, incumbents of positions in this series may also:

1. Compose letters and review documents for completeness, content and compliance with regulatory and legal standards.

SUPERVISION RECEIVED:

Administrative Assistant II:

Incumbent of positions at this level receive general supervision from an administrative or other employee of higher grade who provide procedural and policy guidance, assign work and review performance through conferences and reports for effectiveness and compliance with laws, rules and regulations.

SUPERVISION EXERCISED:

Administrative Assistant II:

Incumbents of this position at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 professional or technical personnel and 1-5 clerical personnel; and indirect supervision (i.e., through an intermediate level supervisor) over 6-15 personnel. (Exhibit 2)

10. The Appellant's request for reclassification to Administrative Assistant II was denied by the University on February 15, 2008. (Exhibit 11)

11. She filed a timely appeal of the University's denial of the Administrative Assistant II classification to the state Human Resources Division ("HRD") on May 5, 2008.

12. On or about September 2, 2008, HRD denied Thomas' appeal of her classification to that agency. (Stipulation)

13. The Appellant is supervised by and reports directly to an Associate Dean in the College of Management. (Testimony of Appellant)

CONCLUSION

After careful review of the testimony and evidence presented in this appeal, I affirm the decision of HRD. The Appellant has not met the burden of proving that she performs a majority of the distinguishing duties of an Administrative Assistant II more than 50% of the time. I base my conclusion on the documentary evidence and the testimony of the Appellant and Victoria Fitzgerald.

According to the Classification Specification, the duties of an Administrative Assistant II are to monitor assigned unit activities; confer with agency staff; maintain liaison with others; review and analyze data concerning assigned unit activities; prepare reports; respond to inquiries; compile data; and perform related work as required. The basic purpose of this work is to provide administrative support in connection with assigned unit activities such as office services, records control, agency personnel services, etc. Incumbents of positions at this level receive general supervision from an administrative or other employee of higher grade who provide procedural and policy guidance, assign work and review performance through conferences and reports for effectiveness. Incumbents of this position at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 professional or technical personnel and 1-5 clerical personnel; and indirect supervision (i.e., through an intermediate level supervisor) over 6-15 personnel.

The Appellant's direct supervisor states that although she "may assign a small amount of work to work-study students, the primary responsibility for assigning work, directly supervising and for performance review of these students is done by a higher-level employee." (Exhibit 11) Therefore her supervision duties are in line with clerical duties and not administrative (exercise direct supervision – not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 professional or technical personnel and 1-5 clerical personnel. (Exhibit 2)

The Audit Guide outlines the current overall duties and responsibilities of the Appellant; however, the Appellant's supervisor states that the primary duties of this position include: "conferring with staff to exchange information, coordinate[ing] efforts, and obtain[ing] information concerning college programs and activities." The appellant also "responds to a variety of requests from faculty and students and sees to the maintenance of equipment." This is in line with clerical, rather than administrative duties. (Exhibit 11)

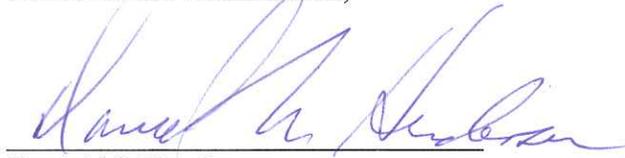
The Appellant spends 60% of her time "assist[ing] the Dean and Associate Dean on all requests in the area of College of Management's CM Web data requests for faculty intellectual contributions course evaluations." Over half of the appellant's duties are aligned with the Clerk classification specification. (Exhibit 4)

Based on her Audit Guide, there is no indication that the Appellant performs specific, fundamental duties associated with the Administrative Assistant classification. This includes: providing on the job training, reviewing, analyzing and preparing reports, and overseeing and coordinating the activities of subordinates in connection with the preparation of reports, etc. (Exhibit 4; Stipulated Facts Guide)

The Appellant's ten years of loyalty and hard work to help further the success of University of Massachusetts Boston is acknowledged and well appreciated by both the University and this commission, but a review of the Administrative Assistant II position shows that a majority of the duties in the job specification relate to greater responsibility and supervisory duties than she currently possesses. Based on her own Audit Guide, the Appellant does not perform these distinguishing duties more than 50% of the time. *See* Wilson v. University of Massachusetts at Amherst, Docket No. C-08-287 (2010); Kurt v. Massachusetts Highway Dep't, Docket No. C-09-428 (2010); Grzybowski v. University of Massachusetts at Amherst, Docket No. C-09-388 (2010); Cohen v. Massachusetts Highway Dep't, Docket No. C-09-268 (2010); *compare* Harand v. Soldiers' Home in Holyoke, 21 MCSR 194 (2008).

This appeal must fail because the Appellant has not shown by a preponderance of the evidence that she is performing a majority of the duties of Administrative Assistant II more than 50% of the time. For these reasons, the appeal filed under Docket No. C-09-16 is hereby *dismissed*.

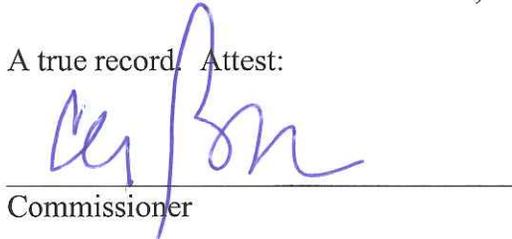
Civil Service Commission,



Daniel M. Henderson
Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, McDowell and Stein Commissioners) on October 21, 2010.

A true record. Attest:


Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(I), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

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.

Notice to:

Mathew D. Jones, Atty. (for the Appellant)

Chris Groll, Atty. (for the Appointing Authority)