

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

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

DEBRA J. BAYE,
Appellant

v.

C-17-255

UMASS AMHERST,
Respondent

Appearance for Appellant:

Ryan Dunn, Esq.
Massachusetts Teachers Association
Two Heritage Drive, 8th Floor
Quincy, MA 02171

Appearance for Respondent:

Helen Bowler, Esq.
Associate Counsel – Labor
UMASS Amherst
320 Whitmore Administration Bldg.
Amherst, MA 01003

Commissioner:

Christopher C. Bowman

DECISION

On December 15, 2017, the Appellant, Debra Baye (Ms. Baye), pursuant to the provisions of G.L. c. 30, s. 49, filed an appeal with the Civil Service Commission (Commission), appealing the November 30, 2017 decision of the state's Human Resources Division (HRD) in which HRD affirmed UMASS Amherst (UMASS)'s denial of her request to be reclassified from Clerk III¹ to Administrative Assistant I (AA 1).

¹ UMASS Amherst reclassified Ms. Baye from Clerk III to Clerk IV. Ms. Baye continued with the appeal process, maintaining that she should be classified to the title of AA I, which is a higher pay grade than Clerk IV.

On January 24, 2018, I held a pre-hearing at the Springfield State Building in Springfield, MA. On August 29, 2018, I held a full hearing at the Whitmore Administration Building at UMASS Amherst.² The hearing was digitally recorded and one CD was made of the hearing.³

FINDINGS OF FACT:

Twenty-three (23) exhibits were entered into evidence. Based on the documents submitted into evidence and the testimony of:

Called by UMASS Amherst:

- Tetna, Classification Specialist, UMASS Amherst;
- Margaret March, Compensation Supervisor, UMASS Amherst;
- Glenn Hartmann, Assistant Controller, UMASS Amherst;

Called by Ms. Baye:

- Debra J. Baye, Appellant;

and taking administrative notice of all matters filed in the case, and pertinent statutes, regulations, policies, and reasonable inferences from the credible evidence, I make the following findings of fact:

Background

1. Ms. Baye began working at UMASS in 1978 in Disability Services and has been employed as a Clerk in the Property Office since 1982. (Testimony of Appellant; Stipulated Facts; Exhibit 8)

² 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.

³ If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that he/she wishes to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

2. On June 15, 2016, Ms. Baye filed a request for reclassification with UMASS to be reclassified from Clerk III to AA I. (Stipulated Fact)
3. As a result of an audit completed by UMASS on April 18, 2017, UMASS reclassified Ms. Baye (and her co-worker) from Clerk III to Clerk IV, retroactive to June 12, 2016. (Testimony of Appellant & March; Exhibit 9) Ms. Baye appealed that decision to HRD, as she continued to believe that a reclassification to the title of AA I was justified. (Testimony of Appellant)

HRD Job Specifications (Last Updated in 1987)

CLERK

4. Incumbents of positions in the Clerk series maintain files and records; answer telephones; prepare and mail outgoing correspondence, forms, files and reports for processing, storage or forwarding; answer inquiries; operate standard office machines and equipment; and perform related work as required. (Exhibit 6)
5. A Clerk IV if the first level supervisory job in the series or, based on assignment, may be the second-level supervisory job in the series. (Exhibit 6)
6. A Clerk IV: 1) explains provisions and contents of various documents or program including effective rates, options, eligibility, benefits, etc. to employees and others; 2) Interviews applicants for clerical positions and make recommendations to superiors; and 3) prepares and processes personnel actions such as promotions, appointments, demotions, terminations, transfers and leaves of absence by recording such actions and completing forms for forwarding for approval. (Exhibit 6)

7. A Clerk IV receives general supervision from administrative or other employees of higher grade who provide procedural guidance and review performance through conferences and reports for effectiveness, accuracy and compliance with standard procedures. (Exhibit 6)

AA

8. Incumbents of positions in the AA 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. (Exhibit 5)

9. An AA I is the first-level supervisory job in the series. (Exhibit 5)

10. Examples of duties of an AA include: 1) monitoring assigned unit activities to ensure effective operations in compliance with established standards; 2) conferring with agency staff in order to exchange information to coordinate efforts and to obtain information concerning agency program and activities; 3) maintaining liaison with various local, state and federal agencies and others to exchange information, to resolve problems and to coordinate activities; 4) reviewing and analyzing data concerning assigned unit activities in order to improve work methods, determine progress, revise established procedures and/or to provide information to superiors; 5) preparing reports concerning assigned unit activities in order to furnish required information and to make recommendations concerning procedures, program and activities.; 6) responding to inquiries in order to provide information concerning assigned unit activities; 7) performing related duties such as compiling data for use in reporting assigned unit activities. (Exhibit 5)

11. An AA I receives general supervision from Administrative Assistants or other employees 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. (Exhibit 5)

Ms. Baye's Job Duties and Responsibilities

12. Ms. Baye works in the Property Office within the Controller's Office which is responsible for maintaining the inventory of UMASS assets through a barcoding and tracking system. (Testimony of Appellant)
13. There are currently two (2) incumbents in the position held by the Appellant. (Testimony of Hartmann). Ms. Baye and another employee monitor the physical equipment and property of UMASS and each has jurisdiction of one half of the campus, according to an established division. (Testimony of Hartmann and Appellant).
14. Ms. Baye is responsible for locating and affixing barcodes on new equipment and other property received by UMASS, which allows for tracking and monitoring of each individual item. (Exhibit 2; Testimony of Hartmann and Appellant). She conducts biannual inventories of all UMASS property within her assigned half of campus. She assists in any and all audits concerning UMASS property. (Exhibit 2; Testimony of Hartmann and Appellant).
15. Ms. Baye regularly receives a report from the Property Supervisor in the Controller's Office, that identifies newly received UMASS property ordered by one of the offices or departments on Ms. Baye's half of campus. (Testimony of Hartmann and Appellant). Ms. Baye locates the purchase order for each item in UMASS's database to obtain relevant information on each item. (Exhibit 2; Testimony of Appellant). Ms. Baye arranges for a barcoding visit with each office or department by phone or e-mail, then goes to the offices and departments where each item on that report should be located and applies a barcode to each item that enables UMASS to track each item. (Exhibit 2; Testimony of Hartmann and Appellant). While visiting

UMASS offices and departments, Ms. Baye confirms property received conforms to that identified on the relevant purchase order and collects information on each item for entry into the property management module of the PeopleSoft Enterprise software package, including a description of the equipment, the barcode, the manufacturer, model number, serial number, and for computers, the user and location. (Exhibit 2; Testimony of Appellant). She uploads that data into the asset management module of PeopleSoft, which is used to inventory and track UMASS property. (Exhibit 2; Testimony of Hartmann and Appellant).

16. Ms. Baye must inventory UMASS property within her jurisdiction once every two years, meaning each item in the asset management database that is located on her half of campus must be physically located and its barcode must be scanned once every two years. (Exhibit 2; Testimony of Hartmann and Appellant). Each UMASS office and department has a designated Equipment Coordinator appointed from among the staff of that office or department. (Exhibit 2; Testimony of Hartmann and Appellant). Before visiting an office or department to conduct a physical inventory, Ms. Baye makes arrangements with the Equipment Coordinator to ensure the inventory process goes smoothly. (Exhibit 2; Testimony of Appellant). To do so, she provides the office or department, a letter explaining when she will visit and what assistance will be expected when she visits, and includes a copy of the Equipment Coordinator information form to ensure the database of Equipment Coordinators is up-to-date. (Exhibit 2; Testimony of Appellant). Ms. Baye extracts data on all of the property recorded in the asset management database for the department or office she plans to inventory and uploads it to a “Blackberry-style” cell phone she uses to scan barcodes. After Ms. Baye has visited an office or department and has scanned the barcode of every item she was able to locate at that time, she uploads it to the asset management

database and generates a list of exceptions for property not successfully scanned. (Exhibits 2 and 23; Testimony of Hartmann and Appellant). She works with the Equipment Coordinator for any required follow up, such as arranging to scan equipment that was absent during the inventory visit (e.g., a faculty member was using some equipment for research in the field at the time of the initial visit). Ms. Baye assumed responsibility for follow up on exceptions and missing property in February 2016. (Exhibits 2 and 20). She will assist Equipment Coordinators and other personnel in following the protocol for disposition of missing property and eliminating it from the property management database (e.g., a piece of equipment has been stolen, broken or is hopelessly missing and decisions must be made on whether a police report must be filed or whether a piece of equipment had exceeded its useful life). (Exhibits 2 and 23; Testimony of Hartmann and Appellant). Ms. Baye manages scheduling and execution of the biannual inventory process without any supervision by anyone in the Controller's office or any other UMASS office or department. (Exhibit 22; Testimony of Appellant). Ms. Baye is the sole point of contact between the Controller's office and the Equipment Coordinators and she is solely responsible for answering questions on property management and disposition for the offices and departments. (Exhibits 2 and 22; Testimony of Appellant). In doing so, Ms. Baye interprets and applies the property management protocol and gives direct instruction to the Equipment Coordinators. (Exhibit 2 and 22; Testimony of Hartmann and Appellant). Ms. Baye also manages the barcoding and inventory process for several off-campus satellite locations that involves remote management through personnel located on site which involves instruction, training and troubleshooting for those off-campus personnel by phone and email. (Exhibit 2).

17. Ms. Baye is responsible for serving as a liaison or interface between inside and outside auditors and the Property Office insofar as audits of UMASS equipment and physical property is concerned. (Exhibit 2; Testimony of Hartmann and Appellant). Those responsibilities primarily include chaperoning the auditors while they are visiting UMASS offices and departments, guiding auditors to the location of equipment and physical property they have asked to examine and answering questions about UMASS's property management protocol, as needed. (Exhibit 2; Testimony of Hartmann and Appellant). From time to time, this is a time-consuming duty for Ms. Baye. (Testimony of Hartmann and Appellant). Ms. Baye is responsible for maintaining a list of the Equipment Coordinators in each office or department as of June 2016 as a result of auditors' demands that office and department-level Property Office liaisons be established for control purposes. (Exhibits 2 and 20; Testimony of Hartmann).

UMASS Review of Reclassification Request

18. Tetna is a classification specialist at UMASS and has been employed as such for thirty (30) years. His job duties include collecting information about various jobs at UMASS, interviewing the employees in each job and creating files for review by the Compensation Supervisor. He was responsible for interviewing the Appellant's request for reclassification. (Testimony of Tetna)

19. Margaret March (Hereinafter "March") is the Compensation Supervisor and has been employed by UMASS for forty-five (45) years. She conducted an appeals review of Baye's reclassification request. Her review consisted of reviewing the paper file, Baye's request for reconsideration and direct observation of Baye performing her job. (Testimony of March)

20. Tetna did not consider the majority of the job duties of the Appellant to fall within the Administrative Assistant series. (Testimony of Tetna)
21. Tetna does not make classification recommendations to UMASS. He interviewed the Appellant, collected the information, and gave his opinion about job functions. (Testimony of Tetna)
22. March recognized that the increased complexity of Appellant's job warranted a reclassification to Clerk IV but not to Administrative Assistant, because she concluded that Baye did not have overall responsibility to monitor the functions of a Department. (Testimony of March)
23. Ms. March did not consider the job classifications of individuals performing inventory functions on other UMASS campuses as part of her determination. She did consider Form 30s for other Clerk III's and IV's and Administrative Assistants on the UMASS Amherst campus in making her determination. (Testimony of March)
24. Glenn Hartmann, Assistant Controller and her intermediate supervisor, considers Baye as an employee with a great deal of experience performing inventory management functions who operates within standard procedures, controlling her workflow in a competent manner. (Testimony of Hartmann)

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, § 49.

Ms. Baye must show that he performs the duties of the AA I title more than 50% of the time. See Gaffey v. Dept. of Revenue, C-11-126 (July 18, 2011); see also Bhandari 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 within the higher level position the majority of the time....”).

UMASS Argument

UMASS argues that, based on the Appellant’s own testimony, more than 50% of her time is spent tagging new equipment and uploading information into an asset database, scheduling appointments in order to inventory new and existing equipment and insuring that the requirements of the office standard procedures for the tracking of assets are met. According to UMASS, Ms. Baye is highly competent with respect to these functions and takes great pride in her accuracy and reliability performing these functions, as she should. However, UMASS argues that the fact remains that while she is given great latitude in scheduling her work in insuring that the inventories assigned to her are completed accurately and timely, she is at all times operating under standard procedures, her assignments are made by her direct supervisor, a Clerk V, on a weekly basis and deadlines are established by Department policy and the dictates of the bi-annual inventory requirement. According to UMASS, more generalized reports and inventory analysis are conducted by those in higher level positions than Ms. Baye. While the Appellant also provides instruction out in the field, UMASS maintains that this instruction is consistent with the duties of the Clerk Classification series.

In summary, UMASS argues that, based upon the Interview Guide and testimony at hearing, there is no indication that Appellant performs specific, fundamental duties associated with the Administrative Assistant classification more than fifty (50%) of the time, such as on the job training, reviewing, analyzing and preparing reports and overseeing and coordinating the activities of subordinates.

Appellant's Argument

Ms. Baye argues that she performs none of the office support functions that comprise a Clerk series position. Rather, according to Ms. Baye, she spends substantially all of her work time on duties and tasks allocated to the Administrative Assistant series. In support of this argument, Ms. Baye asserts that incumbents in Clerk series positions provide basic office support services at the behest of professional and supervisory staff that are manual or routine in nature, are directly supervised, do not require exercise of judgment or discretion and are not substantially improved or informed by experience. There is no specialized skill or training required for tasks such as filing, preparing letters and packages for mailing, receiving and distributing incoming mail, answering and directing incoming phone calls, retrieving hardcopy and electronic records for use by others and using standard office equipment, such as fax and copier machines.

Ms. Baye argues that her job duties and responsibilities more closely align with AA I which requires incumbents to monitor actual workflow of the office or department, confer with University staff outside of their own office on a formal, work-related basis, prepare reports concerning their own work, respond to inquiries from outside of their office and compile data for external reporting purposes. Ms. Baye argues that she has shown that she conducts specialized job functions without direct supervision and applies skills gained through knowledge and training based on her informed judgment and experience. Further, she states that she has shown

that she has broad discretion over the timing and sequence of her work and spends a considerable amount of her work time communicating with University personnel outside of the Property Office, most notably Equipment Coordinators and internal and external auditors that examine the University's books and property. Ms. Baye stresses that the barcoding-related responsibilities and the biannual inventory process are unsupervised, conducted independent of other Property Office and Controller's Office personnel and that she sets the schedule and makes all process-related judgment calls independently.

Finally, Ms. Baye argues that she performs some supervisory functions as she provides advice to UMASS personnel on how to resolve specific equipment-related issues and provides instructions to personnel located on-site and remotely.

Analysis

UMASS takes reclassification appeals seriously. They work hard to provide a fair, objective and thorough review process for employees requesting a reclassification. Here, they carefully reviewed Ms. Baye's job duties and responsibilities, reached out to appropriate individuals and made their best assessment of what job title best matches the employee's job duties and responsibilities. That is not an easy task considering that many of the job specifications, including the Clerk and AA series, have not been updated since 1987. An additional challenge is that some job titles available for use by civil service municipalities may not be available for use by UMASS. Within this framework, UMASS ultimately determined that the title of Clerk IV, as opposed to AA I, best reflected the job duties and responsibilities performed by Ms. Baye. Thus, they reclassified Ms. Baye from Clerk III to Clerk IV.

Based on a review of all the evidence, it appears to me that neither Clerk IV or AA I best reflects Ms. Baye's job duties and responsibilities. Rather, her job appears to fall squarely into

the Inventory Management or Storekeeper Series listed in the “Municlass Manual” maintained by HRD. However, what is effectively before me now is, of the two titles, Clerk IV or AA I, which better describes the duties performed by Ms. Baye a majority of the time.

Both parties provided persuasive arguments, but Ms. Baye has shown, by a slight preponderance of the evidence, that AA I is the more appropriate title here. After listening (and re-listening) to all relevant testimony and reviewing all of the relevant documents, I don’t believe Ms. Baye’s duties are only “clerical” in nature. Rather, she has shown that she has become a go-to person regarding the vital task of tracking the vast physical inventory at UMASS and that her job duties are more consistent with an AA I than a Clerk IV. She has shown that she does monitor assigned unit activities to ensure effective operations in compliance with established standards; she does consult with agency staff in order to exchange information to coordinate efforts and to obtain information concerning agency program and activities; and she does serve as a liaison to other employees regarding the correct processes for maintaining inventory. Although she does not analyze data concerning assigned unit activities in order to improve work methods, she does review the data and provide the information to superiors. She also certainly responds to inquiries in order to provide information concerning assigned unit activities; and she does collect (and arguably compile) data for use in reporting the activities of the unit.

Finally, given that both Clerk IV and AA I are described as being a first level supervisory position, I don’t think the fact that Ms. Baye is not a supervisor, alone, can be dispositive of this appeal.

I recognize that this decision (further) potentially upsets the proverbial apple cart, given that one (1) other Clerk IV performs the same duties and responsibilities as Ms. Baye and that both of them report to a Clerk V, titles that were just recently adjusted by UMASS after they determined

that Ms. Baye should be reclassified from a Clerk III to a Clerk IV. However, that does not change the fact that Ms. Baye spends a majority of her time performing the duties of an AA I and this, is not a valid reason for denying Ms. Baye's appeal. I do, however, believe it is appropriate to delay the effective date of this decision, giving the parties the opportunity to work with HRD to identify a more appropriate series and title (i.e. – Storekeeper, Inventory Management series) that can be applied here.

Conclusion

For all of the above reasons, Ms. Baye's appeal under Docket No. C-17-255 is **allowed** and she shall be reclassified to the position of Administrative Assistant I. The effective date of this decision is July 1, 2019. If, on or before July 1st, UMASS is able to identify and obtain authorization to use a more appropriate title to assign to Ms. Baye, UMASS may file a motion to re-open this appeal for the Commission to reconsider and/or modify its decision here.

Otherwise, this decision shall become effective July 1, 2019.

Civil Service Commission

/s/ Christopher C. Bowman
Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on April 11, 2019.

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:
Ryann Dunn, Esq. (for Appellant)
Helen Bowler, Esq. (for Respondent)