

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

Decision mailed: 12/16/11  
Civil Service Commission 03

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

**THOMAS BOWEN,**  
*Appellant*

v.

**DEPARTMENT OF  
CONSERVATION and  
RECREATION,**  
*Respondent*

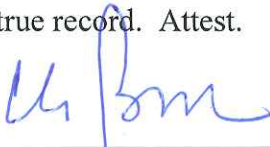
**Case No.: C-11-147**

**DECISION**

After careful review and consideration, the Civil Service Commission voted at an executive session on December 15, 2011 to acknowledge receipt of the report of the Administrative Law Magistrate dated October 20, 2011. On November 17, 2011, the Commission received comments from the Appellant. A copy of the Magistrate's report is enclosed herewith. The Appellant's appeal is hereby *dismissed*.

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, McDowell and Stein [Marquis, absent], Commissioners) on December 15, 2011.

A true record. Attest.



\_\_\_\_\_  
Christopher C. Bowman  
Chairman

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or 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.

Notice to:

Joseph DeLorey, Esq. (for Appellant)  
Frank Hartig, Esq. (for Appointing Authority)  
John M. Marra, Esq. (HRD)  
Richard C. Heidlage, Esq. (DALA)



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ADMINISTRATIVE LAW APPEALS

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RICHARD C. HEIDLAGE  
CHIEF ADMINISTRATIVE MAGISTRATE

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October 20, 2011

Christopher C. Bowman, Chairman  
Civil Service Commission  
One Ashburton Place, Room 503  
Boston, MA 02108

**Re: Thomas Bowen v. Dept. of Conservation and Recreation**  
**DALA Docket No. CS-11-391**  
**CSC Docket No. C-11-147**

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CIVIL SERVICE COMMISSION

Dear Chairman Bowman:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that, pursuant to 801 CMR 1.01(11)(c)(1), they have thirty days to file written objections to the decision with the Civil Service Commission. The written objections may be accompanied by supporting briefs.

Sincerely,

  
Richard C. Heidlage  
Chief Administrative Magistrate

RCH/mbf

Enclosure

cc: Joseph DeLorey  
Frank Hartig, Esq.

**COMMONWEALTH OF MASSACHUSETTS**

Suffolk, ss.

**Division of Administrative Law Appeals**

**Thomas Bowen,**  
Appellant

v.

Docket No. C-11-147  
DALA No. CS-11-391

**Department of Conservation  
And Recreation,**  
Respondent

**Appearance for Appellant:**

Joseph DeLorey  
AFSCME  
8 Beacon Street  
Boston, MA 02108

**Appearance for Respondent:**

Frank Hartig, Esq.  
Assistant General Counsel  
Department of Conservation & Recreation  
251 Causeway Street  
Boston, MA 02114

**Administrative Magistrate:**

**Maria A. Imparato, Esq.**

**SUMMARY OF RECOMMENDED DECISION**

The Appellant has not met his burden of proving that he is improperly classified as a Recreation Facilities Supervisor I. He has not shown by a preponderance of the evidence that he is performing the majority of the duties of a Recreation Facilities Supervisor III more than 50% of the time.

**RECOMMENDED DECISION**

Thomas Bowen is appealing under the provisions of M.G.L. c. 30, s. 49 the April 25, 2011 decision of the Human Resources Division (HRD) to deny his request to be reclassified

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CIVIL SERVICE COMMISSION

from the position of Recreation Facilities Supervisor (RFS I) to Recreation Facilities Supervisor III (RFS III) in the Department of Conservation and Recreation (DCR).

I held a hearing on July 11, 2011 at the office of the Division of Administrative Law Appeals, 98 North Washington Street, Boston, MA. I admitted ten (10) exhibits into evidence, in addition to "A" for identification. There are two tape cassettes of the hearing.

Mr. Bowen testified on his own behalf. Karen Valeri, a Personnel Analyst in the DCR Office of Human Resources, testified on behalf of the Respondent.

I denied the Appellant's Motion to Remand to Personnel Administrator for Hearing.

The record closed on August 29, 2011 with the filing of proposed decisions by both parties.

#### **FINDINGS OF FACT**

1. Thomas Bowen has worked for the DCR, formerly the Metropolitan District Commission (MDC), for twelve years. (Testimony.)
2. From November 1 through March 14 of each year, Mr. Bowen is an assistant manager at the Bajko Skating Rink in Hyde Park in his permanent title of Recreation Facilities Supervisor I (RFS I.) (Testimony.)
3. From March 14 through November 1 of each year, Mr. Bowen assumes the seasonal position of night and weekend assistant clubhouse manager at the Leo J. Martin Golf Club in Weston. During this time, Mr. Bowen receives a seasonal promotion to the title of Acting Recreation Facilities Supervisor II and is compensated accordingly. (Testimony.)
4. During the summer season, the golf club is open from dawn to dusk. Employees work on two shifts: 5 a.m. to 1:30 p.m.; and 12 noon to 8 p.m. Mr. Bowen works on the 5 a.m. to

1:30 p.m. shift on Saturday and Sunday. He works on the 12 noon to 8 p.m. shift on Mondays, Tuesday and Wednesday. (Testimony.)

5. At the golf course, Mr. Bowen is responsible for daily receipts received through memberships, tournaments, leagues and daily fees. On Saturday and Sunday he opens the golf course, and on Monday, Tuesday and Wednesday he closes the golf course. He maintains records for tee times and creates foursome groups of golfers. He tracks and maintains daily cash fees and deposits them in the bank. He troubleshoots problems including maintaining the credit card machine. He prepares payroll, checks timesheets, enforces rules, and resolves problems and disputes on the course, at the clubhouse and with neighbors. (Exs. 4, 5.) The basic purpose of the Assistant Clubhouse Manager "is to regulate the order of play on state operated golf courses." (Ex. 6.)
6. Mr. Bowen supervises eight seasonal staff at the golf course who work as starters and as laborers. He does not supervise any full-time DCR employees. (Testimony; Ex. 5.)
7. Mr. Bowen reports to Jim Burke, the club house supervisor, who is an RSF II. Mr. Burke supervises two (2) RSF I's, including Mr. Bowen. (Testimony; Ex. 10.)
8. During the summer season, Mr. Burke receives a seasonal promotion to the title of Acting Recreation Facilities Supervisor III and returns to his permanent position of Recreation Facilities Supervisor II for the winter season.
9. The Classification Specifications for the Recreation Facilities Supervisor Series approved in 1988 defines the RFS I as the entry-level supervisory job in the series, the RFS II as the second level supervisory job in the series, and the RFS III as the third level supervisory job in the series. (Ex. 8.)
10. The example of duties common to all levels in the series are:

- a. Operates and maintains recreational facilities such as swimming pools, playgrounds and bathhouses.
- b. Monitors events and patrols facilities during events to prevent theft and vandalism and to enforce rules and regulations.
- c. Inspects buildings and equipment; performs routine maintenance and repairs of equipment and facilities such as swimming pools, playgrounds, and athletic fields.
- d. Operates such equipment as lawn mowers, snow removal equipment, hand and power tools, pumps and generators, and chlorinators.
- e. Ensures the proper upkeep and cleanliness of facilities, including the cleaning of showers and restrooms, trash removal and grounds maintenance.
- f. Enforce safety rules and regulations.
- g. Performs related duties such as selling tickets, collecting and depositing receipts and maintaining routine records.

11. The Classification Specifications indicate in the section called Difference Between

Levels in Series that a RFS III performs six additional duties:

- a. Supervise the operation and maintenance of a cluster of recreation facilities including a swimming pool, an ice skating rink, playgrounds, athletic fields, etc.
- b. Supervise the off-season refurbishing of skating rinks.
- c. Prepare estimates and specifications for maintenance projects; recommend equipment, materials and supplies for purchase; and inspect equipment, materials and supplies purchased.
- d. Promote the use of facilities by contacting individuals or groups and describing available equipment and services.
- e. Maintain inventory and bookkeeping records; prepare work schedules; and order supplies and equipment.
- f. Develop and monitor facility budgets.



12. Under the Classification Specifications, RFS I's "exercise direct supervision (i.e., not through an intermediate level supervisor) over, assign work to and review the performance of 6-15 maintenance and/or labor personnel." (Ex. 8.)
13. RFS III's "exercise direct supervision (i.e., not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 supervisory personnel; and indirect supervision (i.e., through an intermediate level supervisor) over 16-50 maintenance and/or labor personnel (number varies due to seasonal help)." (Ex. 8.)
14. Mr. Bowen does not perform the level distinguishing duties of an RFS III. Mr. Bowen does not supervise the operation and maintenance of a cluster of recreation facilities; he does not prepare estimates for maintenance projects; he does not maintain inventory and bookkeeping records for the whole golf course; and he does not develop and monitor facility budgets. Mr. Bowen does not contact individuals or groups to promote the use of the facilities. (Testimony.)
15. Mr. Bowen does not supervise supervisory personnel, and he does not supervise any full-time employees. (Testimony.)
16. Mr. Bowen interviews, but does not hire staff. He performs seasonal reviews of the seasonal staff, but does not prepare the EPRS. (Testimony.)
17. Mr. Bowen made a written request for reclassification claiming that "I do the work of Golf Course Supervisor." (Ex. 7.)
18. Mr. Bowen submitted an Appeal Audit Interview Guide dated March 30, 2010, indicating his daily duties at the golf course. (Ex. 5.)
19. Ms. Valeri, of the DCR Human Resources Department issued a Non-Management Appeal Audit Report Form dated June 22, 2010, concluding that the title of RCF I "more

comprehensively and accurately describes the natures of assigned duties and responsibilities and is consistent with the job specifications for this level." Mr. Bowen's request for reclassification was denied. (Exs. 3, 4.)

20. Mr. Bowen appealed to the Human Resources Division (HRD). By letter of April 25, 2011, HRD denied Mr. Bowen's request for reclassification because "Recreation Facilities Supervisor I is the most appropriate classification for your position and therefore we must deny your appeal." (Ex. 2.)

21. Mr. Bowen appealed HRD's decision to the Civil Service Commission on April 28, 2011. (Ex. 1.)

### CONCLUSION AND RECOMMENDATION

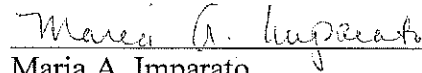
I recommend that the decision of HRD denying Mr. Bowen's request to be reclassified from a Recreation Facilities Supervisor I to a Recreation Facilities Supervisor III be affirmed. Mr. Bowen has not met his burden of proving that he is improperly classified. He has not shown by a preponderance of the evidence that he is performing the majority of the duties of a RSF III more than 50% of the time.

Mr. Bowen does perform any of the level distinguishing duties of an RSF III, not does he supervise supervisory personnel. When he performs the job of the assistant clubhouse manager of the golf course during the summer months, he receives a seasonal promotion to the position of RSF II and is paid accordingly. He has not demonstrated that his work entails any of the level distinguishing duties of an RSF III.



Mr. Bowen has not met his burden of proof. I recommend that his request for reclassification from RSF I to RSF III be denied.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Maria A. Imperato  
Administrative Magistrate

DATED: OCT 20 2011