

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

SANDRA L. CONKEY,
Appellant

v.

C-06-340

DEPARTMENT OF CONSERVATION
AND RECREATION,
Respondent

Appellant's Attorney:

Pro Se
Sandra L. Conkey

[REDACTED]

Respondent's Attorney:

Francis Hartig, Esq.
Assistant General Counsel
251 Causeway Street
Boston, MA 02114

Commissioner:

John E. Taylor

DECISION

Pursuant to the provisions of G.L. c. 30, s. 49, the Appellant, Sandra Conkey (hereafter "Appellant" or "Conkey"), is appealing the decision of the Human Resources Division (HRD) denying her request for reclassification from the position of Clerk III to the position of Program Coordinator II. The appeal was timely filed and a hearing was held on June 5, 2007 at the offices of the Civil Service Commission. One tape was made of the hearing.

FINDINGS OF FACT:

Five (5) exhibits (Joint: 1-5) were entered into evidence at the hearing. Based on the documents submitted into evidence and the testimony of:

- Robert Samuels, Classification Coordinator, Department of Conservation and Recreation;
- William Pula, Regional Director, Department of Conservation and Recreation; and
- Appellant Sandra Conkey

I make the following findings of fact:

1. The Appellant commenced employment as a Clerk III with the Massachusetts Department of Conservation and Recreation (DCR), Recreation Water Supply Protection Quabbin Forestry Section on August 1, 2005. (Testimony of Appellant)
2. The Appellant's "Position Description-Form 30", which lists her Clerk III duties and responsibilities, states, "Responsible for Forestry Program Office support work and other basic support duties including answering phones and filing." (Exhibit1)
3. The Appellant states that immediately upon her arrival, she was assigned many duties that her supervisor, an Office Manager (EDP Systems Analyst I), performed including coordination and sales administration of the Department's Forestry Program. (Testimony of Appellant)

4. In February 2006, after consultation with and support from Regional Director William Pula, the Appellant filed a reclassification appeal for the position of a Program Coordinator for the Department, asserting that her job was misclassified and should be posted at a higher job title, with appropriate compensation at that title, effective August 1, 2005. (Id.)
5. The Appellant stated that after eight days of training, her supervisor left for a one week vacation but never returned to work and passed away fifteen months later, on November 17, 2006, due to illness. (Id.)
6. The Appellant testified that, once her supervisor left, she became responsible for the majority of her supervisor's work in the Forestry Department, such as overseeing 340 contracts, performing project review, generating reports, serving as a team leader and working directly and closely with her team of foresters. She stated that she monitors on a daily basis a program involving revenue of \$800,000. (Id.)
7. In conjunction with her request for reclassification to the position of Program Coordinator II, DCR sent the Appellant an Interview Guide that included detailed questions concerning her current position as Clerk III. The Appellant completed this form and submitted it to DCR. (Exhibit 1)
8. In the Interview Guide, the Appellant lists as her basis for appeal her taking responsibility for her supervisor's work since her supervisor left on August 15, 2005. (Exhibit 1)
9. In the section of the Interview Guide entitled "Specific Duties," the Appellant responded that she spends 40% of her time coordinating and

monitoring the Department's Forestry Program activities; 30% of her time completing Administrative aspects of the Forestry Program; 20% of her time maintaining the Division database; 5% of her time acting as an Assistant to the Regional Planner III; and 5% of her time performing related job duties. (Id.)

10. The Appellant also submitted a package of documents relating to her daily job duties. (Exhibit 5)
11. Pula testified in support of the Appellant's reclassification, stating that the Appellant took over the Office Manager's position and her responsibilities warrant a higher position than Administrative Assistant I. (Testimony of Pula)
12. A letter dated June 26, 2006 from the Acting Chief Forester for the Department supported the Appellant's reclassification into the appropriate Program Coordinator position. A second letter dated June 26, 2006 written by a Forester II in the Department also supported the Appellant's reallocation to a Program Coordinator position. (Exhibit 4)
13. Robert Samuels, Classification Coordinator for the Department, conducted a desk audit of the Appellant's position in order to determine the appropriate title for the position. He testified that after reviewing the information submitted, he found no grounds to reallocate the position. Samuels also stated that he determined that Forestry Clerks perform the duties that the Appellant does, and that she was being paid out of grade for the additional duties she was asked to do. (Testimony of Samuels)

14. Samuels stated that he suggested to the Appellant and Pula that he assign some of the Appellant's additional duties to her on a permanent basis and then come back and her position could be looked at again. (Id.)
15. Samuels testified that in the Program Coordinator series, the Program Coordinator runs the program but in the Quabbin District, where the Appellant works, the Head Forester (Forester III) runs the Forestry program. He also stated that Program Coordinators are supposed to supervise staff and the Appellant does not, and that they have budget responsibilities that the Appellant does not have. (Id.)
16. Samuels testified that across the Commonwealth, the Department has no Program Coordinators that perform administrative work. (Id.)
17. On August 28, 2006, the Commissioner of the Department issued a decision determining that the Department found the duties being performed by the Appellant did not warrant a reallocation of her position from Clerk III to Program Coordinator II. (Exhibit 1)
18. The Appellant subsequently appealed the Department's decision to HRD on September 15, 2006. HRD denied the Appellant's appeal on November 9, 2006. (Id.)
19. The Appellant filed an appeal of HRD's decision with the Commission on December 8, 2006.
20. On December 8, 2006, HRD informed the Appellant that as a result of its review, her position would be reallocated from the title of Clerk III to

the title of Administrative Assistant I at Step 6, effective August 10, 2006. (Exhibit 1)

21. The Appellant was a credible and well-spoken witness and provided a detailed explanation of her job duties. (Demeanor of Appellant)

CONCLUSION:

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 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.” After careful review of the testimony and evidence presented in this appeal, the Commission concludes that the decision of the Human Resources Division denying the Appellant’s request to be reclassified to Program Coordinator II should be affirmed. It is noted that by testimony and exhibits by both parties, the Appellant’s position was reallocated from the title of Clerk III to the Title of Administrative Assistant I on December 8, 2006. The Appellant has not met her burden of proof to demonstrate she was improperly classified as a Clerk III in that she has not shown that she performed the duties of a Program Coordinator II more than 50% of the time.

Specifically, Samuels’ testimony indicated that the Appellant does not supervise anyone as Program Coordinators do, does not have the budget responsibilities that

Program Coordinators have, and that Program Coordinators are responsible for running programs but, in the Quabbin District, the Head Forester runs the Forestry program.

The Appellant's and Respondent's testimony indicated that she was extremely competent in performing her duties and an asset to her Department and the Commonwealth. Although the Commission concludes that the Appellant is an excellent and extremely valuable employee of the Department of Conservation and Recreation, a careful review of the information also confirms that the Appellant is properly classified as a Clerk III.

For all of the above reasons, the appeal under Docket No. C-06-340 is hereby **dismissed**.

Civil Service Commission

John E. Taylor
Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman; Guerin, Marquis, Taylor and Henderson, Commissioners) on August 23, 2007.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. 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.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A 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:

Sandra L. Conkey

Francis Hartig, Esq.

John Marra, Esq. HRD