

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

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

CONSTANCE PARKS,
Appellant

v.

C-20-036

DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT,
Respondent

Appearance for Appellant:

Pro Se
Constance Parks

Appearance for Respondent:

Christopher Groll, Esq.
Labor and Employee Relations Manager
Department of Housing and Community
Development
100 Cambridge St #300
Boston, MA 02114

Commissioner:

Cynthia A. Ittleman

DECISION

On March 4, 2020, the Appellant, Constance Parks (Appellant), pursuant to G.L. c. 30, § 49, filed an appeal with the Civil Service Commission (Commission) contesting the decision of the state's Human Resources Division (HRD) to deny her request for reclassification from a Clerk V position to Program Coordinator I (PC I) at the Department of Housing and Community Development (DHCD). A pre-hearing conference was held remotely via WebEx on March 24, 2020, and a full hearing was held remotely via WebEx on June 2, 2020.¹ The hearing

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.

was digitally recorded and both parties were provided with a recording of the hearing.² Both parties submitted post-hearing briefs. As indicated below, the appeal is denied.

FINDINGS OF FACT:

The Respondent entered fourteen (14) exhibits into evidence (Resp. Ex. 1-14) and the Appellant entered twenty-one (21) exhibits into evidence (App. Ex. 1 – 21) at hearing. Based on these exhibits; the testimony of the following witnesses:

Called by Respondent:

- Ita Mullarkey, Acting Assistant Undersecretary, Division of Housing Stabilization
- Lisa Pollack, Human Resources Manager, DHCD

Called by Appellant:

- Constance Parks, Appellant;

taking administrative notice of all matters filed in the case; all pertinent rules, statutes, regulations, case law, and policies; and reasonable inferences from the credible evidence; a preponderance of credible evidence establishes the following facts:

1. The Appellant began her employment at the Department of Transitional Assistance (DTA) and has worked within this agency, DHCD, for thirty-five years. She is currently employed as a Clerk V in the Division of Housing Stabilization at the DHCD. The Division of Housing Stabilization serves and supports the homeless population for the state of Massachusetts and provides shelter, stabilization, child care, support and other services. (Appellant Testimony).

² 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, the recording should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

2. The Appellant is a valued employee within the DHCD. She is the front-line staff to the public and provides support services within the agency to other DHCD staff. The agency greatly appreciates the work she performs. (Resp. Ex. 2; Mullarkey Testimony).
3. In approximately August 2019, Ms. Parks learned that she would be performing some of the job duties that a coworker, M.H., who was a Program Coordinator I, had been performing until she left the office. These duties included Child Care referrals, Separation Notices, and Notice of Temporary Emergency Shelter Interruptions (TESIs).
4. On August 26, 2019, the Appellant filed an appeal for a reclassification with the DHCD because she had absorbed some of M.H.'s duties. (App. Ex. 1, 2; Appellant Testimony).
5. The Appellant wrote on her DHCD Classification Appeal Form ("Interview Guide"), dated September 18, 2019, that she had absorbed duties of the PC I position, specifically regarding Child Care referrals and Separation Letters. The Appellant listed the percentages of her time that she spent on these duties as follows:
 - Process Child Care Referrals: 36%
 - Process and Upload TESIS: 25%
 - Create Separation Notices for Workers to be Distributed to Client 15%
 - Correspond with Child Care Provider regarding referrals 10%.(Resp. Ex. 1)
6. Ms. Pollack interviewed the Appellant and the Appellant's supervisors to discuss the Appellant's responsibilities. The Appellant's supervisor determined that the percentage of time the Appellant performs the four duties relevant to this appeal as follows:
 - Process Child Care Referrals: 15%
 - Process and Upload TESIS: 2%
 - Create Separation Notices for Workers to be Distributed to Client 10%
 - Correspond with Child Care Provider regarding referrals – combine with process child care referrals.(Resp. Ex. 1)

7. Ms. Pollack wrote a detailed memorandum outlining the Appellant's job functions and comparing those duties and responsibilities to those of a PC 1. She recommended the DHCD deny the Appellant's request for reclassification. (Resp. Ex. 1, 2; Pollack Testimony).
8. The Appellant's request for classification was denied on December 11, 2019. As the basis for its denial, the Department informed the Appellant that it found that she does not perform the duties of the PC I a majority of the time. (Resp. Ex. 2).
9. The Appellant appealed the DHCD's determination to HRD. The appeal was denied. (Resp. Ex. 3).
10. The job specification (Form 30) for a Clerk V provides that the general statement of duties and responsibilities are as follows:

The Clerk V serves as the agency first point of contact for visitors and incoming telephone calls to the Department of Housing and Community Development (DHCD) regarding housing and the Emergency Assistance (EA) shelter system. The incumbent assists in scheduling meetings... and maintains multiple contact lists. He/She prepares outgoing mail and correspondence or parcels, prepares files, constituent records and documents; operates standard office machines and equipment and performs a variety of clerical support tasks and receptionist duties. (Resp. Ex. 7).

11. The Appellant's Clerk V Form 30 includes 16 duties and responsibilities, the following of which are relevant to this appeal:

- Receives, screens and directs all telephone calls for DHCD and Division of Housing Stabilization, identifying callers, determining subject of call, and directing them to appropriate staff.... Provides back-up receptionist support to the Undersecretary's Office as needed.
- Receives information utilizing the ASIST and BEACON systems, prepares separation letters, Notice of Temporary Emergency Shelter Interruption (TESI) requests. Accurately prepares and uploads records to be electronically archived. Files, maintains, locates, and retrieves information from active and closed case records.
- Works closely with Placement Unit manager throughout the review and approval process of all EA applications.

- Works in collaboration DHCD Divisions of Housing Stabilization and Rental Assistance, community partners, and EA families responding to inquiries regarding the status of submitted applications/packets.
- Creates MS Word and Excel documents as needed.
- Maintains current list of providers... and adds and deletes contacts as needed, which also includes maintaining current board of directors list for each provider.
- Tracks new contract manager schedules.
- Processes new child care voucher referrals. (Resp. Ex. 7).

12. The minimum entrance requirements for the Clerk V position are four years, or equivalent part-time, experience in office work, some of which must have been in a supervisory capacity, or equivalent combination of the required experience as detailed in the Form 30. (Resp. Ex. 7).

13. The Appellant has not had a complete EPRS evaluation in many years. The Appellant's draft EPRS, dated April 24, 2018, includes a comment that the Appellant has a new supervisor but lacks any ranking or other evaluation on her job performance. (Resp. Ex. 5, 6; Mullarkey Testimony).

14. The Classification Specifications (Class Specs) for the Clerk Series state that "the basic purpose of this work is to provide clerical support." (Resp. Ex. 10).

15. A PC I performs the following duties: (1) coordinates and monitors assigned program activities in order to ensure effective operations and compliance with established standards; (2) reviews and analyzes data concerning assigned agency programs in order to determine progress and effectiveness, to make recommendations for changes in procedures, guidelines, etc. and to devise methods of accomplishing program objectives; (3) provides technical assistance and advice to agency personnel and others concerning assigned programs in order to exchange information, resolve problems and to ensure compliance with established policies, procedures and standards; (4) responds to inquiries from agency staff and others in order to provide information concerning assigned agency programs; (5) maintains liaison

with various private, local, state and federal agencies and others in order to exchange information and/or to resolve problems; and (6) performs related duties such as attending meetings and conferences; maintaining records; and preparing reports. (Resp. Ex. 9).

16. The Class Specs for the Program Coordinator Series state that the primary purpose of work in this position is to “coordinate, monitor, develop and implement programs.” The Program Coordinator Series is a supervisory level series that requires, at minimum, “two years’ experience professional, administrative, or managerial experience in business administration, business management, or public administration the major duties of which involved program management, program administration, program coordination, program planning and/or program analysis, or equivalent substitutions with education.” (Resp. Ex. 9).
17. The Appellant processes a large number of Child Care referrals each day. She cross-references them to determine if the family is receiving emergency benefits, which is the sole criterion for receiving child care benefits. Additionally, the Appellant checks the accuracy of the referrals and obtains additional information if needed and verifies that the information is accurate. If no child care provider is available, the Appellant tries to find other providers. (App. Ex. 12; Appellant Testimony; Mullarkey Testimony).
18. In her position, the Appellant does not make determinations about the number of childcare slots that are available and does not oversee the Child Care referral program for efficiency or effectiveness. (Mullarkey Testimony).
19. The Appellant inputs placement data monthly based on information from seven different workers. Once she receives the information from the workers, it takes her “several hours” to input the data. (Appellant Testimony).

20. Temporary Emergency Shelter Interruption (TESI) forms are the agency's documentation that a homeless family who is in emergency shelter may leave the shelter and return without losing their place. The Appellant types up the form that has the family's information and uploads the document into an online database. (Appellant Testimony Mullarkey Testimony).
21. The Appellant does not approve TESI requests and does not monitor the TESI process in order to determine its operational effectiveness and efficiency. (App. Ex. 17; Mullarkey Testimony).
22. As part of her duties inherited from M.H., the Appellant creates Separation Notices, which are signed by the Associate Director and the Assistant Undersecretary. (Appellant Testimony; Mullarkey Testimony).
23. The Appellant does not determine whether a family should be removed from a shelter. (Mullarkey Testimony).
24. The office where the Appellant works is very busy and most of the Appellant's time is spent on her receptionist duties. (Mullarkey Testimony) The Appellant acknowledges that she answers the phone at the office, adding that she also performs her other duties while handling the phone calls. (Appellant Testimony).
25. The parties agree that the Appellant performs all the duties in her Class Specs as a Clerk and three duties pertaining to Child Care referrals, TESI forms, and Separation Notices. (Appellant Testimony; Mullarkey Testimony; Pollack Testimony).

Legal Standard

“Any manager or employee of the commonwealth objecting to any provision of the classification of 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.

The Appellant has the burden of proving that she is improperly classified. To do so, she must show that she performs the duties of the CSES II title more than 50% of the time, on a regular basis. 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 the duties encompassed within the higher-level position a majority of the time”); Gaffey v. Dep’t of Revenue, 24 MCSR 380, 381 (2011).

Parties’ Arguments

The DHCD argues that the Appellant is appropriately classified as a Clerk V, as her duties, according to the DHCD, fall in line with her current classification. The Appellant’s duties are primarily clerical. Even though the Appellant spends a good deal of time on Child Care referrals and placements, the nature of that work does not comprise the program coordination required by a PC I. Likewise, the Appellant’s duties for her other “new” responsibilities relating to TESI reports and Separation Notices require inputting information, verifying that it is correct, and ensuring that it appears in the proper databases. Ultimately, the DHCD argues, the evidence does not show that the Appellant is responsible for coordinating and/or monitoring programs.

The Appellant argues that she performs the level distinguishing duties of a PC I a majority of the time. The Child Care referrals, which take up most of her time, have increased her workload. In essence, she argues that she runs the Child Care referral program because she makes sure all the information on the form is correct, she finds available spots for childcare, and she double checks to see that the family is receiving the emergency benefits that qualify them for

childcare services, which is the only criterion to receive that service. Regarding the TESI's, the Appellant argues that because this responsibility previously fell to an employee who was a Program Coordinator, it should not be considered "clerical." In addition, creating the Separation Notices, also formerly performed by a Program Coordinator, involves little more than inputting information. In all, the Appellant argues that she regularly uses her expertise and discretion and performs her work with minimal supervision from a manager and that her new job functions are more than clerical responsibilities.

Analysis

The Appellant has not shown by a preponderance of the evidence that she spends a majority of her time performing the duties and responsibilities of a PC I as indicated below.

First, the position of a PC I at DHCD coordinates and monitors assigned program activities in order to ensure effective operations and compliance with established standards. The Appellant ensures that the child care referrals are correctly completed and recorded in accordance with office policy. Given that the sole criterion for a family to receive child care through DHCD's Housing Stabilization unit is to be eligible for emergency assistance, the Appellant performs the valuable function of ensuring eligibility and finding available care. However, this function does not constitute coordinating and monitoring the program. Ms. Mullarkey explained that the Appellant does not determine how many families are eligible for this benefit and does not oversee the program. The same is true for Separation Notices, a form letter which the Appellant completes, and the TESI forms, which involve the clerical work of properly inputting and electronically storing them. Further, the Appellant did not establish by a preponderance of the evidence that it takes more than 50% of her time to complete the three forms involved other than her unsupported assertion.

Second, the Appellant does not perform the second responsibility of a PC I: “reviews and analyzes data concerning assigned agency programs in order to determine progress and effectiveness, to make recommendations for changes in procedures, guidelines, etc. and to devise methods of accomplishing program objectives.” Resp. Ex. 9. The Appellant’s level of involvement with child care referrals, Separation Notices and TESIIs do not involve reviewing and analyzing data or devising methods of accomplishing program objectives. As a day-to-day matter, the Appellant ensures that families receive certain benefits for which they are eligible under the child care referrals and TESIIs but she does not review or analyze data about these programs related to the forms she completes in order to determine program progress and effectiveness.

Regarding the third and fourth responsibility of a PC I: “provides technical assistance and advice to agency personnel and others concerning assigned programs in order to exchange information, resolve problems and to ensure compliance with established policies, procedures and standards” and “responds to inquiries from agency staff and others in order to provide information concerning assigned agency programs”, the Appellant arguably gives technical assistance and advice to agency personnel and responds to inquiries about child care, Separation Notices, and TESI forms. Resp. Ex. 9. However, the clerical nature of inputting information into form letters does not indicate that her responsibilities are program-wide. Rather, these job responsibilities fall within the scope of the Clerk V duties: “to work in collaboration DHCD Divisions of Housing Stabilization and Rental Assistance, community partners, and EA families responding to inquiries regarding the status of submitted applications/packets” and “prepares separation letters, Notice of Temporary Emergency Shelter Interruption (TESI) requests [and] accurately prepares and uploads records to be electronically archived.” Resp. Ex. 7.

Last, the fifth and sixth PC I responsibilities involve interacting with various private, local, state and federal agencies and others in order to exchange information and/or to resolve problems, as well as performing related duties such as attending meetings and conferences; maintaining records; and preparing reports. The record shows that the Appellant interacts with other entities, such as child care providers and other organizations supporting the homeless population when she finds child care for eligible families. The Appellant also maintains certain records. However, there is no evidence in the record showing that she prepares reports or exchanges information to resolve agency issues or problems or that she interacts with federal agencies.

Further, the detailed and thorough analysis prepared by the Respondent regarding the Appellant's functions, including the information provided by the Appellant's supervisor, and the consistent and credible testimony of the Respondents' witnesses, indicate that the Appellant does not perform the functions of a PC I a majority of the time.

In sum, the Appellant's work at the DHCD is highly valued and she is performing important and essential work for people seeking assistance at a crucial time in their lives from the DHCD's Division of Housing Stabilization. The Appellant has not shown, however, that the duties she is performing qualify as the job duties of a PC 1 and, even if they did, she has provided insufficient evidence showing that she performs the job duties of a PC 1 at least 51% of the time. Therefore, the reclassification of her position to a PC I is not warranted.

For all of the above reasons, the Appellant's appeal under Docket No. C-20-036 is hereby *denied*.

Civil Service Commission

/s/ Cynthia A. Ittleman

Cynthia A. Ittleman

Commissioner

By a vote of the Civil Service Commission (Bowman, Chair; Camuso, Ittleman, Tivnan, and Stein, Commissioners) on June 17, 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 the 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:

Constance Parks (Appellant)

Christopher Groll, Esq. (for Appointing Authority)