

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, SS.

**CIVIL SERVICE COMMISSION**

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

KATHLEEN M. CANNING,  
*Appellant*

v.

C-09-342

DEPARTMENT OF PUBLIC SAFETY,  
*Respondent*

Appellant's Attorney:

*Pro Se*  
Kathleen Canning

[REDACTED]

Respondent's Representative:

Lennie DeSouza-Smith  
Department of Public Safety  
One Ashburton Place: Room 1301  
Boston, MA 02108

Commissioner:

Christopher C. Bowman

**DECISION**

Pursuant to the provisions of G.L. c. 30, s. 49, the Appellant, Kathleen Canning (hereinafter "Appellant" or "Canning"), is appealing the August 13, 2009 decision of the Human Resources Division (hereinafter "HRD") denying her request for reclassification from the position of Clerk V to the position of Administrative Assistant II at the Division of Public Safety (hereinafter "DPS"). A full hearing was held on March 10, 2010 at the

Springfield State Building in Springfield, MA. The hearing was digitally recorded and a CD of the proceeding was provided to both parties.

**FINDINGS OF FACT:**

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

*For the Appointing Authority:*

- Lennie DeSouza-Smith, Human Resources Director, Department of Public Safety;
- Guy Licciardi, Director of Administrative Services, Department of Public Safety;

*For the Appellant:*

- Kathleen Canning, Appellant;

I make the following findings of fact:

1. DPS is located within the state's Executive Office of Public Safety and Security (EOPPS). It is a regulatory, licensing and inspection agency, charged with the oversight of numerous activities, businesses and professions. DPS also provides administrative support to ten (10) different boards and commissions and employs just over 100 people, fifty of whom work in the central office in Boston with the others assigned to various satellite locations. (Testimony of DeSouza-Smith)
2. The Appellant commenced employment with DPS's Division of Inspections approximately nine (9) years ago as a Clerk IV. She was reclassified to her current position of Clerk V in 2005. At the time this appeal was filed, she was assigned to the Springfield office on Liberty Street<sup>1</sup>. (Testimony of Appellant)

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<sup>1</sup> The Appellant has been on unpaid leave for several months. DPS, citing budgetary constraints, has transferred the Appellant to its central office in Boston. The Appellant has appealed that decision and the matter is currently pending in a different forum.

3. On February 28, 2008, the Appellant filed a written request with DPS to be reclassified from her position of Clerk V to Administrative Assistant II. (Exhibit 1)
4. A Clerk V is the second-level supervisory job in this series or, based on assignment, may be the third-level supervisory job in this series. (Exhibit 12)
5. According to the Classification Specification, Clerk Vs are expected to:  
  
“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.”
6. The Classification Specification for the Administrative Assistant series issued in July of 1987 states that an Administrative Assistant II is, “the second-level supervisory job in this series.” (Exhibit 6)
7. The Level Distinguishing Duties for the position of Administrative Assistant II states that an Administrative Assistant II, “provide[s] on-the job training and orientation for employees; review[s], analyze[s] and prepare[s] reports concerning assigned unit activities; and oversee[s] and coordinate[s] the activities of subordinates in connection with the preparation and maintenance of reports, records and documents.” (Exhibit 6)
8. In conjunction with her request for reclassification to the position of Administrative Assistant II, the Appellant completed an Interview Guide and submitted it to DPS. (Exhibit 1)
9. In this Interview Guide, the Appellant lists as her basis for appeal the following: “My individual position has substantially changed in depth, responsibility and/or accountability.” (Exhibit 1)

10. In the section of the Interview Guide entitled Specific Duties, the Appellant failed to indicate what percentage of her time was spent on each duty, but indicated that she performed the following duties:

- Administrative support for (3) Building Inspectors, (3) Elevator Inspectors, (1) Engineering Inspector as well as other Inspectors and administrative staff within the department along with the general public.
- Building inspections / permits.
- Main point of contact for office. Communicate effectively with both internal and external contacts at all levels.
- Ensure efficient day to day running of all department business operations including filing, photocopying, faxing, payroll, maintain records, mail, order supplies, maintain equipment, clean office, answer and refer inquiries by phone, fax, email and in person, make sure all information is up to date, accurate and complete. Guarantee office security.
- Prepare and issue license / certificates.
- Create and prepare information, actual exams, answer sheets and reading material for Building Inspector CSL classes.
- Schedule and arrange meetings / exams.
- Create, prepare and post “quick reference” charts, graphs, lists, maps etc. for up to date information. (Exhibit 1)

11. In the section of the Interview Guide entitled “Job Changes”, the Appellant wrote, “February 27, 2008 – Processing Certificate of Inspections and Building Permits”. (Exhibit 1)

12. The Appellant testified that she sat behind a counter in the Springfield office where architects would drop off plans, members of the public would make inquiries such as when the next hoisting license examination would be held. The Appellant would also answer the phone, file reports, receive and distribute mail, operate office equipment, make photocopies, submit time sheets and arrange meetings and examinations. (Testimony of Appellant)

13. The Appellant testified that in February 2008, she was trained on how to process building permit inspection certificates. As part of this process, the Appellant testified

that she would accept applications, complete the necessary data entry, generate permits and, at times, sign the permit on behalf of an inspector. (Testimony of Appellant)

14. The Appellant testified that she also performed what she deemed “on-the-job training” by showing inspectors how to use office equipment and fill out various forms such as requisitions for supplies. (Testimony of Appellant)
15. The Appellant testified that she would also create books for training sessions to be used by the inspectors. (Testimony of Appellant and Exhibit 23)
16. Lennie DeSouza-Smith is the Human Resources Director for DPS and is responsible for reviewing requests for reclassification. She reviewed the Appellant’s request which is the subject of this appeal. (Testimony of DeSouza-Smith)
17. As part of her review, DeSouza-Smith reviewed the Appellant’s 2006 request for reclassification which resulted in the Appellant being reclassified from a Clerk IV to a Clerk V. She also reviewed the Appellant’s Form 30 – Job Description as well as the Appellant’s interview guide. DeSouza-Smith testified that she didn’t see any substantive changes in the Appellant’s job duties since that time. In regard to the Appellant’s claim that she was now processing certificates of inspections and building permits, DeSouza-Smith testified that these duties were referenced in the 2006 reclassification appeal and listed as duties 12 and 13. (Testimony of DeSouza-Smith and Exhibit 11)
18. DeSouza-Smith also determined that the Appellant does not supervise any employees. Thus, she is not a second-level supervisor as referenced in the Administrative Assistant II job specifications. (Testimony of DeSouza-Smith)

19. Based on DeSouza-Smith's review, she did not believe that any of the Appellant's current job duties constituted on-the-job-training nor did she see any evidence that the Appellant reviewed, analyzed and prepared reports concerning assigned unit activities; or and oversaw and coordinated the activities of subordinates in connection with the preparation and maintenance of reports, records and documents. (Testimony of DeSouza-Smith)
20. Guy Licciardi is the Appellant's supervisor and was involved in the Appellant's 2006 reclassification request. He agreed that the Appellant should have been reclassified to the position of Clerk V, but does not believe that the Appellant's job duties have changed since that time. (Testimony of Licciardi)
21. Licciardi disputed the Appellant's testimony regarding her role in processing certificates of inspections and building permits, stating that this was solely the role of the inspectors. He expressed serious concern regarding the Appellant's testimony that she may have signed any certificates or permits on behalf of inspectors. (Testimony of Licciardi) During cross-examination, the Appellant equivocated on this issue, at one point refuting her prior testimony. (Testimony of Appellant)
22. At the close of hearing, the Appellant submitted several documents, which were all accepted and marked as exhibits, which she stated were examples of work product that show she performs more than 50% the duties of the higher position of Administrative Assistant II a majority of the time. (Testimony of Appellant and Exhibits 15 -23)

## **CONCLUSION**

I carefully considered all of the testimony and documents presented, including the Appellant's testimony regarding her job duties and responsibilities and the samples of her work product. The Appellant has not shown that she is improperly classified as a Clerk V and she has not shown that she performs a majority of the duties of the higher classification of Administrative Assistant II more than 50 % of the time. HRD's decision to deny the Appellant's appeal should be affirmed.

It is undisputed that the Appellant is not a second-level supervisor as she does not supervise any employees. In regard to the level-distinguishing duties required of an Administrative Assistant II, I respectfully conclude that the Appellant does not perform any of them.

The Appellant does not perform on-the-job training functions of employees or conduct orientations. Inherent in the job duties of a Clerk V are tasks such as assisting employees with clerical jobs such as filling out forms and assisting with the photocopy machine. These duties do not constitute on-the-job training activities.

The Appellant does not oversee and coordinate the activities of subordinates in connection with the preparation and maintenance of reports, records and documents. The Appellant also does not review, analyze or prepare reports concerning assigned unit activities. I reviewed all of the Appellant's work product before reaching this final conclusion. Although this material demonstrates that the Appellant is a conscientious and dedicated employee, it does not constitute the review, analysis or preparation of reports.

The centerpiece of the Appellant's appeal appears to be what she argues are new job duties relating to the issuance of certificates and permits after she received additional training in 2008. All of the duties described by the Appellant in this regard are consistent with those of a Clerk V and not an Administrative Assistant II. I also believe the Appellant may have inadvertently overstated her role regarding the processing of these certificates and permits.

For all of these reasons, the Appellant's appeal under Docket No. C-09-342 is hereby *dismissed*.

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Christopher C. Bowman  
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Stein and Taylor, Commissioners) on April 8, 2010.

A true record. Attest:

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Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt this decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.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:  
Kathleen Canning (Appellant)  
Lennie DeSouza-Smith (for Appointing Authority)  
John Marra, Esq. (HRD)