

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

DIANA VACCA-BARRY,
Appellant

v.

C-07-286

DEPARTMENT OF REVENUE,
Respondent

Appellant's Attorney:

Pro Se
Diana Vacca-Barry

Respondent's Attorney:

Suzanne Quersher, Esq.
100 Cambridge Street
P.O. Box 9557
Boston, MA 02114

Commissioner:

John J. Guerin, Jr.

DECISION

Pursuant to the provisions of G.L. c. 30, § 49, the Appellant, Diana Vacca-Barry (hereinafter "Ms. Vacca-Barry" or "Appellant"), is appealing the January 17, 2007 decision of the Human Resources Division (HRD) denying her request for reclassification from the position of Child Support Enforcement Specialist (CSES) A/B to the position of CSES C. The appeal was timely filed and a hearing was held on November 6, 2007 at the offices of the Civil Service Commission (hereinafter "Commission"). One tape was made of the hearing.

FINDINGS OF FACT:

Based on the documents entered into evidence (Joint Exhibits 1 – 15) and the testimony of Sandra Antonucci, Personnel Analyst II; Robert Crist, Northern Regional Director, Child Support Enforcement Division (“CSE”) and the Appellant, I make the following findings of fact:

1. Ms. Vacca-Barry began working for the Department of Revenue (hereinafter “Department” or “DOR”) Child Support Enforcement (CSE) Division on October 7, 2002 as a CSES A/B. Ms. Vacca-Barry worked for the CSE Customer Service Bureau in Wakefield and then moved to the DOR office in Chelsea. (Exhibit 12)
2. Ms. Vacca-Barry transferred from the CSE Customer Service Bureau to the Northern Region Field Operations Unit of the Child Support Enforcement Division in Salem as a CSES A/B effective January 23, 2005. (Id.)
3. New class specifications for the CSES series were approved by the Personnel Administrator in 2001. The classification specifications provide that a CSES A/B “title is used for nonsupervisory Child Support Enforcement Specialists...” A CSES C “title is used for Child Support Enforcement Specialists who are first-level supervisors and/or non-supervisory employees performing the most complex assignments”. (Exhibit 1)
4. The class specifications further provide for a CSES C:

“Non-supervisory expert employees have exceptional mastery of technical job content beyond the usual competency level and perform functions considered complex for the series. They provide consultation and guidance to colleagues. Examples of non-supervisory expert assignments are: Child Support Training Specialist”. (Id.)

5. In February 2005, the Child Support Enforcement Division underwent a business process redesign, which brought the child support cases into the regional offices and created what is known as “case owners”. (Testimony of Crist)
6. Case owners perform the duties and responsibilities contained on the 2001 CSES classification specifications under Child Support Case Manager. (Testimony of Antonucci)
7. Case Manager is one path a CSES A/B may be assigned; the other is a Customer Service Representative. (Testimony of Antonucci and Exhibit 1)
8. Case managers do not complete expert level work in the normal course of business. (Testimony of Crist)
9. At the time of her appeal, Ms. Vacca-Barry had worked in the Northern Regional office for just over one month. At that time, Ms. Vacca-Barry was a case owner on a team of seven employees: four CSES Cs, and three CSES A/Bs. (Exhibit 8 and Testimony of Antonucci)
10. Because Ms. Vacca-Barry had only been working in a regional office for two weeks at the time of the business process redesign, she could not have been an expert level case owner and would not have been expected to perform at the expert level. (Testimony of Crist)
11. At the time of her appeal, Ms. Vacca-Barry was performing typical Case Manager duties, including the administration of child support cases from creation to closing. (Testimony of Antonucci, Crist and Vacca-Barry)
12. Ms. Vacca-Barry receives her assignments via a process called an ‘alpha-split’ whereby cases are distributed alphabetically, by last name, in a 3-letter to 3-letter split

- (e.g. AAA – BAC, BAD – CAE, etc.). Therefore, her cases are assigned to her and all other case owners at random. In February 2005, Ms. Vacca-Barry became an owner of 1,501 cases of approximately 56,000 of such cases throughout the Commonwealth. (Testimony of Crist and Vacca-Barry)
13. Ms. Vacca-Barry does not directly supervise any employee. (Testimony of Antonucci and Exhibit 3)
 14. Ms. Vacca-Barry does not conduct statewide training or formulate policy. (Testimony of Antonucci)
 15. Sandra Antonucci testified that, although it is true that CSES C's do the same work as CSES A/B's since the business process redesign, the DOR does not and cannot demote the CSES C's because there is no "just cause" to do so as required by civil service laws and rules, as well as the Collective Bargaining Agreement with these employees. This situation led to an abundance of reclassification requests. (Id.)
 16. On March 3, 2005, Ms. Vacca-Barry filed a request for reallocation of her position from a CSES A/B to a CSES C with the DOR's Human Resources Bureau ("HRB"). (Testimony of Antonucci and Exhibit 2)
 17. Geralyn Page, HRB Classification Manager, conducted an interview, reviewed the applicable paperwork and determined that Ms. Vacca-Barry was properly classified as a CSES A/B. (Testimony of Antonucci and Exhibit 4)
 18. On November 22, 2006, the HRB issued a preliminary denial of Ms. Vacca-Barry's request to be reclassified to a CSES C. (Exhibit 4)
 19. On November 27, 2006 Ms. Vacca-Barry issued a rebuttal to the HRB's preliminary decision. (Exhibit 5)

20. On December 11, 2006, the DOR's HRB issued its final decision, denying Ms. Vacca-Barry's appeal. Ms. Vacca-Barry opted to appeal this decision to the HRD.

(Exhibit 6)

21. On January 17, 2007, the HRD concurred with the DOR's finding that Ms. Vacca-Barry was appropriately classified as a Child Support Enforcement Specialist A/B.

(Exhibit 7)

CONCLUSION:

After careful review of the testimony and evidence presented in this appeal, the Commission concludes that the decision of the HRD denying Ms. Vacca-Barry's request for reclassification should be affirmed.

The Appellant has not met her burden of showing that she was improperly classified as a Child Support Enforcement Specialist A/B. She seeks reclassification to a CSES C. Ms. Vacca-Barry, however, does not directly supervise anyone nor has she shown that she performs "the most complex assignments." Non-supervisory expert employees must perform beyond the usual competency level in order to qualify as a CSES C. Ms. Vacca-Barry did not demonstrate, nor was she required to perform, exceptional mastery of technical job content during her first few months working in the Northern Region. Therefore, she has not shown that she performed the duties of a CSES C more than 50% of the time as required for consideration to be reclassified into a higher position. Further, the fact that CSES C's are performing similar duties as CSES A/B's does not entitle the Appellant to reclassification of her position.

For all of the above stated findings of fact and conclusion, the appeal on Docket No. C-07-286 is hereby *dismissed*.

Civil Service Commission

John J. Guerin, Jr.
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Taylor, Henderson, Marquis and Guerin, Commissioners) on January 3, 2008.
A true record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), 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 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.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 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 to:
Diana Vacca-Barry
Suzanne Quersher, Esq.