



STATE OF INDIANA

STATE EMPLOYEES' APPEALS COMMISSION

FRANK O'BANNON, Governor

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Indianapolis, IN 46204
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**BEFORE THE STATE EMPLOYEES' APPEALS COMMISSION
IN THE MATTER OF APPEAL**

RECEIVED

Between)

SEP 27 1999

Yvonne Collins,)

September 24, 1999

PUBLIC EMPLOYEES
RETIREMENT FUND

Petitioner,)

File No: [REDACTED]

And)

Public Employees' Retirement Fund,)

Respondent.)

HEARING OFFICER'S REPORT AND ORDER

A contested hearing was held July 30, 1999. Lindley R. Myers, Hearing Officer presided. Petitioner, Yvonne Collins, appeared pro se. Respondent, Public Employees' Retirement Fund (PERF), was represented by counsel, Mark C. Webb. Ms. Collins complains of being worked outside her classification and seeks compensation therefore.

PROCEDURAL HISTORY

This matter was first heard on May 29, 1998, by Hearing Officer William R. Howell. Upon the record thereof, acting Hearing Officer Kimra A. Schleicher issued the Findings, Conclusions, & Order. Upon Petitioner's timely filed Objections, this matter was remanded by the Commission for re-hearing.

DISCUSSION

Until 1995, Respondent maintained a Business Administrator 2 (PAT 2) position. Respondent eliminated the position, creating two positions - Administrative Assistant 3 (PAT 3) and Personnel Assistant 6 (PAT 6).

Ms. Collins was hired July 10, 1995, to fill the Administrative Assistant 3 position. The person hired to perform the Personnel Assistant 6 position resigned in January of 1997. Thereafter, and until approximately June of 1998, Ms. Collins assumed and performed the duties of the Personnel Assistant 6, in addition to her own. In June of 1998, approximately two weeks after the first hearing, the Personnel Assistant 6 position was filled and the "extra" duties were removed from among Ms. Collins' responsibilities.

Prior to filling the Personnel Assistant 6 position, Respondent was approved to reclassify it to a PAT 3. By memo requesting the reclassification, Respondent states: "[c]urrently, PERF has an employee under another job classification performing these duties of this vacant [Personnel Assistant 6] position, in addition to her assigned duties." The record does not indicate that anyone other than Ms. Collins assumed, or shared in the responsibility to perform, the Personnel Assistant 6 duties during the relevant period.

Ms. Collins' argument is simple and compelling. If a PAT 2 position is split into one PAT 3 and one PAT 6, then combining the two parts - a PAT 3 and a PAT 6 - should restore the whole - a PAT 2. Respondent offers no contravening explanation, but simply argues that the State Personnel Department reviewed Ms. Collins' JAQ and determined she was not working out of class.

In other words, Respondent defended, albeit without evidence, the methods employed by the State Personnel Department to rate and classify jobs or to analyze JAQs. But the methods employed are not at issue. It is the result which is at issue. The result is that,

previously, a Business Administrator 2 performed the same duties that, during the relevant period, Ms. Collins performed, yet he was classified a PAT 2 - a higher category than the PAT 3 at which Respondent claims Ms. Collins' combined duties should have been classified. Proof that Ms. Collins performed, or was responsible to perform, the same duties as another, yet was differently classified, comprises Petitioner's prima facie case. In the absence of any evidence to the contrary, such proof is sufficient to carry Petitioner's burden of showing that the resulting disparate and lower job classification, under the circumstances, as applied to her, is arbitrary.

FINDINGS

1. At all relevant times, the Petitioner, Yvonne Collins, was employed by PERF as an Administrative Assistant 3.
2. Beginning January 1, 1997, Ms. Collins assumed and performed the duties of the vacant Personnel Assistant 6 position, in addition to her own Administrative Assistant 3 duties.
3. In June of 1998, the duties of the Personnel Assistant 6 were removed from among Ms. Collins' responsibilities, and the vacant position was eventually filled.
4. Prior to Ms. Collins' hire, her duties as Administrative Assistant 3 and those of the Personnel Assistant 6 were combined and were performed by a single employee whose job classification/title was that of Business Administrator 2, a PAT 2 position.
5. No other employee assisted Ms. Collins during the relevant period, either in performing the additional Personnel Assistant 6 duties or in performing her own Administrative Assistant 3 duties.
6. There was no evidence that the Business Administrator 2 position, which the Personnel Assistant 6 and Administrative Assistant 3 positions originally comprised, was improperly classified.
7. Petitioner has proven she was worked out of classification during the relevant period.
8. The parties stipulated that the difference between a PAT 3 and PAT 2 represents, to Ms. Collins, a [REDACTED] increase in wages.

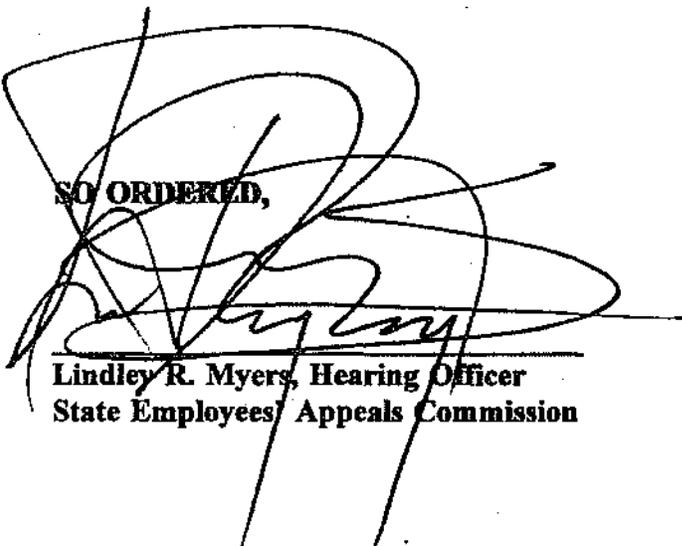
9. For the relevant period, Ms. Collins should have been compensated for the additional duties by a [REDACTED] increase in pay.

ORDER

THEREFORE, Petitioner's request for relief is **GRANTED**. Ms. Collins shall, for the relevant period, January 1, 1996, through approximately June 12, 1998, less the number of days, under merit rules, it was permissible to be worked out of classification without additional compensation, be paid the [REDACTED] differential to which she was entitled, less tax withholdings or other deductions.

Parties may file their objections, if any, to this Order within fifteen (15) days or the rights to further review are waived.

SO ORDERED,



Lindley R. Myers, Hearing Officer
State Employees' Appeals Commission

LRM/pjmc

cc: Yvonne Collins
Mark C. Webb