

BEFORE THE PERSONNEL RESOURCES BOARD
STATE OF WASHINGTON

JILLIAN CADY

Appellant,

v.

DEPARTMENT OF FISH AND WILDLIFE,

Respondent.

Case No. R-RULE-16-002

FINDINGS, CONCLUSIONS AND
ORDER OF THE BOARD

INTRODUCTION

Hearing. This matter came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair; SUSAN MILLER, Vice Chair; and VICKY BOWDISH; Member. The hearing was held on October 26, 2016, at Room 110, Capitol Court in Olympia, Washington.

Appearances. Appellant Jillian Cady was present. Respondent Department of Fish and Wildlife (DFW) was present and represented by Thomas Knoll, Assistant Attorney General.

Nature of Appeal. This is an appeal of a rule violation. Appellant alleges her reallocation from Management Analyst 1 (MA 1) to Management Analyst 3 (MA 3) should be effective August 25, 2015, the day her position description (PD) was date stamped by DFW HR.

FINDINGS

By email dated July 2, 2015, Appellant submitted an updated PD to Gil Hodgson, Senior HR Consultant, requesting his opinion on a reallocation from an MA 1 to an MA 3. The PD was unsigned.

On July 21, 2015, when Appellant had not heard back from Mr. Hodgson, she sent him an email asking if he reviewed her PD.

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2 In August 2015, Mr. Hodgson informed Appellant she needed to submit a signed copy of her PD.
3 On August 25, 2015, Appellant submitted a signed PD to DFW HR.
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5 On October 14, 2015, Appellant sent an email to Mr. Hodgson inquiring when he could review her
6 August 25th PD.
7

8 By email dated October 15, 2015, Mr. Hodgson informed Appellant that she and her supervisor
9 needed to complete specific forms for an official reallocation review request. Mr. Hodgson
10 attached the forms to the email. In his email Mr. Hodgson informed Appellant that if her supervisor
11 made the request for reallocation, the supervisor could request an effective date of July 2, 2015, the
12 date Mr. Hodgson started the reallocation request process.
13

14 On January 12, 2016, DFW HR received an HR Action form and PD from agency management
15 requesting a reallocation from MA 1 to MA 3. The HR Action Form indicated that agency
16 management wanted an effective date of July 2, 2016.
17

18 By email to Appellant dated March 18, 2016, Mr. Hodgson stated:
19

20 "I had thought in an employer-initiated reallocation request, the employer could
21 determine the effective date because the WAC permits that. However, via policy
22 and what I understand to be practice, WDFW has limited the discretion the WAC
23 provides."
24

25 By email dated March 18, 2016, Mr. Hodgson explained to Appellant that, per policy 4027, the
26 effective date of an employer-initiated review must be the date the PD was received in HR. Mr.
27 Hodgson testified that WAC 357-13-085 states, in relevant part, "the effective date of an employer-
28
29

1 initiated reallocation is determined by the employer,” giving DFW the latitude to determine their
2 own policy regarding effective dates.

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4 By letter dated April 8, 2016, Mr. Hodgson informed Appellant her position was reallocated to
5 Management Analyst 3 effective January 12, 2016, the date agency management submitted the HR
6 Action Form.

7
8 Appellant filed a timely appeal with the Personnel Resources Board on April 27, 2016. In her
9 appeal, Appellant states the effective date should be July 2, 2015, when she first submitted her PD
10 to Mr. Hodgson for review.

11
12 **Witnesses.** For the Respondent: Jillian Cady; Cathy Davidson, Support Services Manager; Gil
13 Hodgson, Senior HR Consultant.

14 15 **ARGUMENTS OF THE PARTIES**

16
17 **Summary of Appellant’s Arguments.** Appellant contends that on July 2, 2016, she emailed Mr.
18 Hodgson with an attached PD asking his opinion on whether or not she could be reallocated to an
19 MA 3. Appellant further contends it was not until August that she was told to submit a signed PD,
20 per Mr. Hodgson’s request. Appellant stated she submitted a signed PD directly to Mr. Hodgson on
21 August 25, 2015, asking when he would have a chance to review the PD for reallocation. Appellant
22 asserts Mr. Hodgson informed her that since there was an agency-wide review of the Biologist
23 series at DFW, he wouldn’t be able to review her PD until about October of 2015. Appellant states
24 that after their conversation, Mr. Hodgson asked her to bring the PD to the front desk for date-
25 stamping and Appellant received a date stamp of August 25, 2015. Appellant argues that the
26 appropriate reallocation request forms should have been given to her on either July 2, 2015, or
27 August 25, 2015, since Mr. Hodgson was aware of her intent for a reallocation.

1 Appellant argues that Policy 4027 does not state an official position review request form must be
2 submitted with an allocation request and the agency should provide links online to the forms for
3 reallocation requests.

4
5 Appellant asserts that when she emailed Mr. Hodgson on October 14, 2015, asking if he had a
6 chance to review her PD submitted and date stamped on August 25, 2015, he told her she needed to
7 complete HR forms to make an official request. She states that because he told her an employer
8 initiated review could possibly set the effective date back to July 2, 2015, she decided to go that
9 route. She further states that if she had known there was no chance for a retroactive date, she would
10 have opted to continue with an employee initiated review.

11
12 Appellant contends that, although her final reallocation request was employer initiated, she was
13 never granted a desk-audit or an analysis of her position.

14
15 **Summary of Respondent's Arguments.** Mr. Hodgson asserts he does not recall a meeting with
16 Appellant on August 25, 2015, to discuss the reallocation of her position. Rather, Mr. Hodgson
17 maintains the first time Appellant requested a formal position review was on October 14, 2015,
18 when she sent an email asking when he could review her PD for reallocation. Mr. Hodgson
19 states he did not email her the forms necessary for reallocation requests until October 15, 2015.

20
21 Mr. Hodgson contends that in his email to Appellant on October 15, 2015, he told her
22 management could reallocate her position retroactively, but did not make a promise to do so.
23 Also in the October 15, 2015 email, Mr. Hodgson gave Appellant an opinion on whether her
24 position was misclassified, considering her current duties on the most recent PD. The email
25 stated, "I agree with you that your position appears misclassified," and proceeded to tell her it
26 appeared the Administrative 4 job class may be a better fit. Per an email dated October 15, 2015,
27 Mr. Hodgson gave Appellant the option of going with an employer initiated request with a
28 possible retroactive date, or an employee initiated review where the effective date would be the
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1 date the PD was received in HR. Appellant responded to the email requesting an employer-
2 initiated request.

3
4 After management submitted the request for Appellant's reallocation, Mr. Hodgson states he
5 learned that DFW policy 4027 requires that employer initiated position reallocation requests are
6 effective the date they are received in DFW HR. Mr. Hodgson explained in an email to
7 Appellant on March 18, 2016, that he communicated incorrect information to Appellant about
8 retroactive dates in an employer initiated request.

9
10 Mr. Hodgson states the PD submitted by management on January 12, 2016, was different from
11 the previous PD submitted in July and August of 2015. The differences are noted in the
12 reallocation memo to Appellant and states, in relevant part: "...Despite the fact that the language
13 of the July 2015 and January 2016 position descriptions are very similar, the latter is distinct in
14 that it reveals a greater degree of independence..."

15
16 **Primary Issue.** Whether Appellant's reallocation request was employee or employer initiated to
17 determine the effective date of Appellant's reallocation.

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19 **DECISION OF THE BOARD**

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21 The Personnel Resources Board has jurisdiction over the parties and the subject matter.

22
23 Appellant stated she was told by Mr. Hodgson that her PD emailed on July 2, 2015, was not signed.
24 As such, Appellant contends she met with Mr. Hodgson on August 25, 2016, and per his request,
25 brought with her a PD signed by her supervisor and the appointing authority. She testified that after
26 speaking with Mr. Hodgson about a reallocation, he told her he would be able to review her
27 position in a couple of months and asked her to bring the PD to the front desk to be date stamped.
28 Appellant contends she was not told at that time to complete specific forms.

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2 While Mr. Hodgson does not recall a conversation with Appellant on August 25, 2015, Appellant's
3 email dated October 14, 2015, states:

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5 "I was just hoping to get an idea of when you might be able to review my PD for
6 reallocation. We had chatted a couple months back and you had thought you would
7 be able to get to it by October..."

8
9 The above email quote is one example of the significant confusion around Appellant's position
10 review request. There was missing information in policy 4027; unavailable position review request
11 forms; conflicting testimony during the hearing; and multiple emails between Mr. Hodgson and
12 Appellant, some of which went unanswered by Mr. Hodgson.

13
14 Despite the confusion and actions appearing at times to favor Appellant, the Board is obligated to
15 find clear evidence supporting the effective date of the reallocation. Since the July, 2015, PD was
16 unsigned and the August 25, 2015, PD did not include the appropriate forms, neither of these dates
17 constitute an official position review request, per DFW's policy required of all other employees.
18 While it appears Mr. Hodgson could have presented Appellant with the appropriate forms and
19 instructions in July or August, he testified he did not know about her desire for a position review
20 until October 14, 2015, when Appellant emailed him asking if he had a chance to review her PD
21 from August 25, 2015. Mr. Hodgson emailed Appellant the correct forms to complete on October
22 15, 2015. In his email, he suggested she consider making an employer initiated request so the
23 reallocation could be retroactive to July 2, 2015.

24
25 Since Appellant received the appropriate forms on October 15, 2015, and informed Mr. Hodgson
26 she would pursue an employer initiated request, the Board finds October 15, 2015, to be the official
27 position review request date. Should Appellant have chosen an employee initiated request, the
28 effective date would have been October 15, 2015. However, since Appellant requested an
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1 employer initiated request, the effective date must be the date the PD and HR Action Form were
2 received by DFW HR, per DFW's policy 4027, which was January 12, 2016.

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4 The Board strongly urges the agency to amend their policy and/or develop clear, easily accessible
5 procedure to include:

- 6 1. Updated instructions on the position review process, including
7 required forms, and;
- 8 2. Where to obtain the forms necessary to accompany all types of
9 position review requests.

10
11 **ORDER**

12 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of JILLIAN CADY is denied
13 and the effective date of reallocation set forth by DEPARTMENT OF FISH AND WILDLIFE is
14 upheld.

15 DATED this ____ day of _____, 2016.

16
17 WASHINGTON PERSONNEL RESOURCES BOARD

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20 _____
NANCY HOLLAND YOUNG, Chair

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23 _____
SUSAN MILLER, Vice Chair

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25
26 _____
VICKY BOWDISH, Member