

BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

IN RE THE APPEAL OF:

ROD HAMMERBECK

Appellant

vs.

CITY OF SEATTLE,
DEPARTMENT OF PARKS AND RECREATION

Respondent

FINDINGS OF FACT
CONCLUSIONS OF LAW

AND DECISION

CSC CASE NO. 99-03-008

FINDINGS OF FACT

1. Rod Hammerbeck, a Senior Carpenter acting pro se, appeals the removal of the out-of-class duties that were assigned to him by his department.
2. The appellant contends that the removal of his out-of-class duties was a disciplinary action that constituted a demotion¹.
3. The appellant contends that the Commission has jurisdiction over this matter because the removal of his assigned out-of-class duties was a disciplinary action.
4. The appellant alleges a violation of the Personnel Rules with respect to Employee Evaluation, Progressive Discipline and Corrective Action.
5. Appellant alleges that his pay has been reduced as a result of the removal of his out-of-class assignment.
6. Appellant's pay has not been reduced, as he contends. Rather, the increase he received for performing higher level work was discontinued when the out-of class assignment was terminated. Appellant's pay for his regular work as a Senior Carpenter was not reduced.
7. The appellant's regular position as Senior Carpenter remained his regular position during the period that he was assigned work out-of-class. Had there been a disciplinary action involving his work as a Senior Carpenter, he would have been able to appeal it.
8. The Personnel Ordinance defines those disciplinary actions which may be appealed to the Commission by "regular" employees as "demotion, suspension, termination of employment, or violation of this chapter or rules passed pursuant thereto,"²
9. Hammerbeck was not a "regular" employee in the out of class position.

¹ Exhibit A; April 23, 1999 memo to Rod Hammerbeck from Rick Nishi, manager of Maintenance Services.

² SMC 4.04.260(A)

10. The Personnel Rules define an out-of class assignment as follows:
"The assignment [emphasis added] of an eligible employee to perform the normal, ongoing duties of a higher-paying position or classification on a temporary basis [emphasis added] in order to avoid a significant interruption of services."³
11. The department contends that Hammerbeck has no inherent right to the higher level duties assigned to him and therefore may not appeal their removal, even if the department asserts that the decision to remove those duties is a disciplinary action.⁴
12. The temporary assignment of the higher level duties of another position does not give the employee to whom those duties were assigned, the rights of a regular employee in the higher level classification. The appellant may not appeal the removal of duties that were never actually a part of his regular position as Senior Carpenter.
13. Duties that constitute work-out-of-class are assigned at management's discretion and may be removed in the same way.

CONCLUSIONS OF LAW

1. The department erroneously called the removal of the out-of-class duties assigned to Hammerbeck a disciplinary action. It was not a disciplinary action, despite the fact that the action was taken in order to correct a perceived inappropriate employment situation.
2. The removal of the appellant's out-of-class duties did not constitute a demotion because the out-of-class duties were assigned to him on a temporary basis. They were not his regular duties [as a Senior Carpenter] therefore, he could not have been "demoted" as a result of their removal. There is no "right" to out-of-class work guaranteed to employees.
3. The Commission lacks jurisdiction in this case. Hammerbeck has no inherent right to the assigned higher level duties, and the Commission does not have the jurisdiction to require the department to reinstate those duties to the appellant's assigned tasks. This appeal should be dismissed.

DECISION

Hammerbeck was not "demoted" because he never actually held the position from which he was returned to his regular duties. The higher level tasks that he was performing were assigned to him while he was still a Senior Carpenter. He never attained a position other than Senior Carpenter. Rather, he remained a Senior Carpenter who was working out-of-class. The Appellant had no inherent right to the higher level duties. It is up to management to decide to whom those duties should be assigned, if they need to be performed at all. Therefore, the Appellant may not appeal their removal and, because they were not his regular duties, he has no standing to come to the Commission for relief. The Commission does not have the jurisdiction to order the department to reinstate the Appellant to a position that he never actually held. There is no demotion involved in this case because the appellant never actually held the higher level position, and the removal of out-of-class duties does not constitute a disciplinary action. Neither element of this case may be appealed. The employee was returned from an out-of-class assignment to his regular duties. This is a prerogative of management, who chose to exercise it in this case.

³ Personnel Rules; Revised December 1998; P.10

⁴ Exhibit A: April 23, 1999 memo to Rod Hammerbeck from Rick Nishi, manager of Maintenance Services.

The Appellant has also alleged workplace harassment in this case. He should be advised that he may pursue this aspect of his complaint with the Seattle Office of Civil Rights.

The Civil Service Commission lacks jurisdiction in this case because the Appellant is not a regular employee in the position to which he wishes to be reinstated. This appeal is hereby dismissed.

FOR THE CITY OF CITY CIVIL SERVICE COMMISSION:


KENNETH M. LOWTHIAN, CHAIRMAN

8/24/99
DATE


DONALD L BRISCOE, COMMISSIONER

8/24/99
DATE


NINA A. HARDING, COMMISSIONER

8/24/99
DATE