

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Larry White,

*Appellant,*

v.

Case No. 10-REC-04-0107

Bowling Green State University,

*Appellee.*

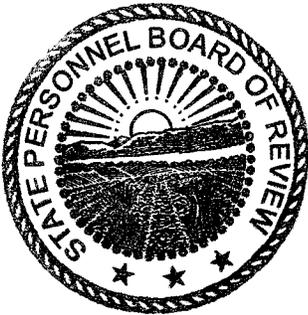
**ORDER**

This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that Appellee's determination be **MODIFIED** and **RECLASSIFIED** to change Appellant's position to a Delivery Worker 2, classification number 53822, pursuant to O.R.C. §§ 124.03 and 124.14.

Lumpe - Aye  
Tillery - Aye



  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

**CERTIFICATION**

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, January 21, 2011.

  
\_\_\_\_\_  
Clerk

**NOTE:** Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

1-21-11mt

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Larry White,

Case No. 10-REC-04-0107

*Appellant,*

v.

November 5, 2010

Bowling Green State University,

**BETH A. JEWELL**

*Appellee.*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This case came to be heard on September 13, 2010. Present at the hearing was Appellant, representing himself. Appellee, Bowling Green State University (BGSU), was present through its designee, Leslie Fern, Employee Relations Specialist with BGSU.

This case comes on due to an appeal timely filed by Appellant on April 21, 2010. That appeal was from a job audit Mr. White requested on December 3, 2009. Results of the audit were received on March 27, 2010. Appellant's position was classified as a Delivery Worker 1, 53821, prior to the audit, and remained as such after the audit. Appellant believes his position is more properly reclassified as a Delivery Worker 2, 53822.

Jurisdiction over the subject matter of this appeal was established pursuant to R.C. 124.03 and R.C. 124.14.

**CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT**

At hearing, two witnesses testified: Larry White, Appellant, whose current classification is Delivery Worker 1; and Leslie Fern, who is the employee of BGSU who made the job audit determination regarding Appellant's position. Appellee submitted exhibits numbered 1 through 8; Appellant submitted exhibits numbered 1-11. Appellant's Exhibit 5 was excluded, as it was comprised of statements of individuals who did not testify at the hearing. The following findings of fact are

derived from the testimony and the admitted exhibits.

Mr. White has worked for Appellee in the classification of Delivery Worker 1 in the Postal Services department for 27 years. Mr. White picks up and delivers mail to departments on campus. He trains and oversees student delivery workers, who also sort, load, and deliver the mail. Mr. White is required to use campus vehicles in carrying out his job duties, and to maintain the vehicles. The campus vehicles Mr. White typically uses include a 2007 Ford E350 Cargo Truck and a 1997 Chevy 3500 Box Truck.

Mr. White spends approximately 60 percent of his time delivering the mail along with student workers. Each semester, Appellee hires 3-4 student workers as "student mail clerk messenger/drivers." The primary purpose of this student worker position is "sorting/delivering/pick-up of campus mail." (Appellant Exh. 10) The students work 2-3 hour shifts. Each student works a total of 10-12 hours per week. Mr. White trains the student workers on the delivery stops and on how to drive the campus vehicles. Mr. White shows the student workers which keys allow access to which rooms, buildings and mail boxes. Mr. White introduces the student workers to each customer and explains customers' individual needs. Mr. White instructs the student workers on how to handle large pickups and special deliveries.

Mr. White spends approximately 25 percent of his time processing the mail. Processing includes separating parcels between routes, breaking the mail down into sections, and further breaking the sections down into departments. Mail is then bundled for delivery. Student workers also assist in processing.

Mr. White spends approximately 10 percent of his time loading the empty mail containers for return to the Bowling Green City Post Office. Mr. White then inspects the campus vehicle for safety, organizes mail for the next day, and parks the vehicle. The remaining duties performed by Mr. White involve the pick-up of mail from the city post office along with needed supplies, such as bags, trays and tubs. Mr. White maintains communications between the Bowling Green city post office and Appellee's campus post office. (Appellee Exhs. 3, 8)

Troy Lacey served as Appellee's Manager of Postal Services and Stamper's Mail & Copy Center and was Mr. White's supervisor for approximately 10 years. Mr. Lacey left the position on August 12, 2010. (Appellee Exh. 5) An interim employee currently is responsible for managing Appellee's Postal Services and Stamper's departments.

Ms. Fern was the individual responsible for reviewing Mr. White's reclassification request and determining that Mr. White's position should remain classified as a Delivery Worker 1. Ms. Fern did not dispute Appellant's description of his job duties. However, Ms. Fern explained Appellee's rationale for not reclassifying Mr. White to a Delivery Worker 2. Appellee explained that its student workers are students, that their work positions are not permanent, and that they are unclassified employees. Therefore, Appellee asserts that the student workers are not "lower level delivery workers"; consequently, Appellee asserts that Mr. White's role in providing direction and training to the student mail clerk messenger/drivers does not make him a lead worker as described in the classification specification for Delivery Worker 2.

### **ANALYSIS, DISCUSSION AND CONCLUSIONS OF LAW**

This case presents this Board with the question of whether Appellant's position with Bowling Green State University should remain classified as a Delivery Worker 1, or, alternatively, should be upgraded to a Delivery Worker 2. Based on the findings set forth above, and for the reasons set forth below, this Board should find that Appellant's position should be reclassified as a Delivery Worker 2.

Ohio Adm.Code 124-7-03(C) provides as follows:

The board shall compare the duties performed by the incumbent employee to the appropriate specifications and determine the classification which most appropriately describes the duties performed in the affected position.

In reviewing the issues presented in a job audit appeal, the test to be applied is which job classification most nearly corresponds to the duties actually performed by the employee. Ohio Dept. of Mental Retardation & Dev. Disabilities v. Ohio Dept. of Adm. Serv. (1988), 44 Ohio App.3d 144.

In Ford v. Ohio Dept. of Natural Resources (1990), 67 Ohio App.3d 755, 758, the Franklin county court of appeals stated as follows:

In order to decide whether the board has conducted a proper review for reclassification purposes, two

requirements must be met: First, the record must reflect that the board compared the relevant class specifications with the duties actually performed. *Gordon v. Ohio Dept. of Adm. Serv.* (Mar. 31, 1988), Franklin App. No. 86AP-1022, unreported, 1988 WL 37094. This comparative review requires an examination in each case of both the actual duties performed, a qualitative factor, and the time spent performing those duties, a quantitative factor. *Smock v. Ferguson* (Dec. 17, 1981), Franklin App. No. 81AP-677, unreported, 1981 WL 3684. Second, if the board decides that certain job-related factors are of paramount importance, there must be substantial evidence in the record which supports that decision. *Gordon*, supra, at 5. The practical effect of this two-tiered approach will not stop short of a stringent comparative review of the employee's job functions within a particular classification, but will also encompass qualitative and quantitative considerations which may distinguish one employee's job responsibilities from another since certain job descriptions may not exactly match any one specific job classification.

In *Harris v. Ohio Dept. of Adm. Serv.* (Sept. 25, 1980), Franklin App. No. 80AP-248, unreported (1980 Opinions 3054), the court found the function statement to be an integral part of a job description. The function statement is to be compared to, and considered along with, the job duties specified for the classification and actually performed by the employee, so as to determine the proper classification in which to place an employee.

The function statement of a Delivery Worker 1 is as follows: "Under close & periodic supervision from delivery worker 2 or other supervisor, picks up & delivers merchandise & materials on scheduled state wide or local route." Rank 1, described as encompassing 75-95 percent of the duties of a Delivery Worker 1, provides that the incumbent "loads & unloads vehicles, pickups [sic] and delivers (e.g., ...mail[.])."

The function statement of a Delivery Worker 2 is as follows: "Under general supervision from administrative supervisor, serves as lead worker (i.e., provides work direction & training), over lower-level delivery workers engaged in transporting materials from one point to another." The following duties are included in Rank 1 of

the Delivery Worker 2 classification specification: "Serves as lead worker (i.e., provides work direction & training) over lower-level delivery workers engaged in transporting food, supplies, furniture &/or equipment from one point to another, assigns delivery workers to routes, ensures drivers receive all assigned cargo & subordinates carry out assigned duties correctly & assists in delivery, loading & unloading of cargo when necessary." Rank 1 is described as encompassing 69-75 percent of the job duties of a Delivery Worker 2.

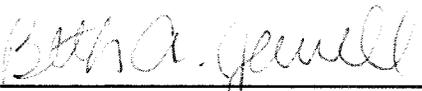
Evidence presented at hearing demonstrates that Appellant performs duties that go above and beyond those of a Delivery Worker 1 and most closely correspond with the function statement and job duties of a Delivery Worker 2. Appellant serves as a lead worker over student delivery workers. Appellant spends 25 percent of his time processing the mail, which involves readying the mail for delivery; and 60 percent of his time delivering the mail. Student workers are trained and directed by Appellant and work with Appellant in both processing and delivering; therefore, Appellant is in a lead worker role 85 percent of the time. Although the students work part time, do not hold permanent positions, and are unclassified employees of Appellee under R.C. 124.11(A)(12), their employment status is not dispositive of the question in this case, that is, which classification specification most closely matches Appellant's actual job duties. The actual work performed by the student workers should be examined in determining whether they are "lower-level delivery workers." See, e.g., Bell v. State of Ohio, Dept. of Administrative Services, unreported, 1993 WL 360305 (Ct. App. 10 Dist. Sept. 9, 1993); see also Swerdan v. Youngstown State University, Case No. 2009-REC-07-0337.

At hearing, Appellee did not dispute Appellant's description of his job duties or the duties of the student workers. The duties of the student workers include sorting, delivering, and picking up campus mail. Appellant provides training and direction to the student workers in all aspects of their job duties. A preponderance of the evidence in the record establishes that Appellant spends at least 69 percent of his time serving as a lead worker providing work direction and training to the student delivery workers. Appellee's table of organization indicates that the student workers are at a level below that of Appellant. (Appellee Exh. 5) Consequently, Appellant serves as a lead worker over lower level delivery workers within the meaning of and well within the time parameters required in Rank 1 of the class specification of a Delivery Worker 2.

Larry White  
Case No. 10-REC-04-0107  
Page 6

## RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **MODIFY** the determination of Appellee, Bowling Green State University, and **RECLASSIFY** Appellant's position to Delivery Worker 2, 53822, pursuant to R.C. 124.03 and R.C. 124.14.

  
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BETH A. JEWELL  
*Administrative Law Judge*

BAJ: