

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JAMES P. BARKIMER,

Appellant

v.

Case No. 05-REC-02-0048

DEPARTMENT OF REHABILITATION AND CORRECTION,
ALLEN CORRECTIONAL INSTITUTION
and
DEPARTMENT OF ADMINISTRATIVE SERVICES,

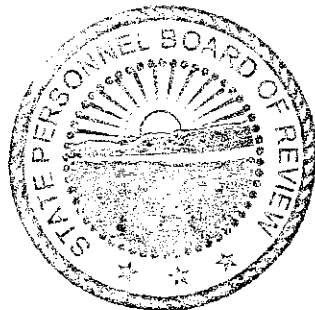
Appellees

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 this 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 the determination of the Department of Administrative Services that Appellant's position is properly classified as Building Maintenance Superintendent 2, classification number 53134, be **AFFIRMED**, pursuant to sections 124.03 and 124.14 of the Ohio Revised Code.



Tracy – Aye
Lumpe – Aye
Booth – Aye



Roger W. Tracy, *Chairman*

CERTIFICATION

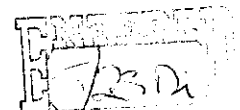
The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that the foregoing is ~~(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, May 23, 2006.



Clerk

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



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

James P. Barkimer,

Case No. 05-REC-02-0048

Appellant

v.

March 28, 2006

Ohio Department of Rehabilitation and Correction,
Allen Correctional Institution,

and

Ohio Department of Administrative Services,

Appellees

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on January 23, 2006 at 10:30 a.m. Present at the hearing were the Appellant, James Barkimer, appearing *pro se*, and the Appellee, the Ohio Department of Rehabilitation and Correction, Allen Correctional Institution's (ACI) designee, Dean McCombs, the Warden's assistant and was represented by Joseph N. Rosenthal and Mahjabeen F. Qadir, both Assistant Attorney Generals. Also present at the hearing was the Ohio Department of Administrative Services representative, Bobbi Lind, a Human Resource Analyst and the Appellant's immediate supervisor, Mr. Edwin Dunn, the Deputy Warden of Administration.

On or about November 30, 2004, the Appellant, James Barkimer, requested a job audit of his Building Maintenance Superintendent 2 position, classification specification number 53134. Subsequently, on or about January 11, 2005, the Appellant, James Barkimer, received the results of his audit request which notified him that his proper classification for his position would be that of Building Maintenance Superintendent 2. After receiving the Ohio Department of Administrative Services and the Ohio Department of Rehabilitation and Correction's decision, the Appellant timely filed his appeal to this Board on or about February 7, 2005. It should be noted that the aforementioned was stipulated to, as well as the

subject matter jurisdiction of this Board was established. Before proceeding onto the record hearing, the Appellant, James Barkimer, stated although he is presently classified as a Building Maintenance Superintendent 2, he is seeking to be reclassified to a Building Construction Superintendent, classification specification number 53141.

STATEMENT OF THE CASE

The Appellant, James Barkimer, testified he is presently employed by the Ohio Department of Rehabilitation and Correction, Allen Correctional Institution as a Building Maintenance Superintendent 2. Mr. Barkimer testified he has been at ACI since July 2004 and that he was previously employed as a Building Construction Superintendent at the Lima Correctional Institution that had closed in July 2004, and that he held that position for approximately 15 years before his layoff and displacement into his current position. Again, he affirmed that he requested the audit on or about November 30, 2004, with the hopes of being reclassified to a Building Construction Superintendent's position.

Next, Mr. Barkimer testified he is presently located at ACI where he oversees a staff of seventeen employees. Mr. Barkimer testified he supervises a carpenter, plumber, an electrician, two air quality control technicians, an electronic technician, a painter, two mechanics, five maintenance repair workers, two boiler room operators and one building maintenance superintendent 1. Furthermore, Mr. Barkimer testified his immediate supervisor is Mr. Edwin Dunn, a Deputy Warden of Administration. He explained Mr. Dunn has been his supervisor since July 2004 and that he approximately has six to seven direct reports. Mr. Barkimer explained he is in charge of the maintenance department at the Allen Correctional Institution and characterized that his overall duties consisted of heading up the oversight of the maintenance and construction at ACI. The witness testified his hours of employment are from 7:00 a.m. to 3:30 p.m. Monday through Friday, on first shift. When questioned if he handles performance evaluations of his employees, approves leave time and effectively recommends discipline to his employees, he answered all in the affirmative. When questioned as to one or a couple of his most important job duties, Mr. Barkimer testified it would be tool control and chemical control and to ensure the safety of the staff and inmates. Furthermore, Mr. Barkimer explained that the overall mission of his department would be to ensure that things are running smoothly and to perform preventative maintenance so things

continue to run smoothly. When questioned if he is in charge of any budget, he testified he is not. However, Mr. Barkimer explained he would collect bids from contractors and/or vendors and would seek approval from his boss, Mr. Dunn, to authorize any work that would be done. Moreover, Mr. Barkimer testified he works independently from the day-to-day directives of Mr. Dunn, although he would meet with Mr. Dunn maybe twice per week or so.

Next, Mr. Barkimer was asked a series of questions with regards to the duties which he performs at work. The witness testified it is true that he does supervise a Building Maintenance Superintendent 1 and various other staff as previously mentioned and does have a basic independent responsibility for all of the programs of the maintenance and repair within ACI. Further, he testified he does also approve the purchase of equipment and supplies, develops cost estimates, develops long range plans for the entire maintenance operations, reviews specifications and blueprints and proposals and contracts, monitors contracts agreements and prepares reports of the maintenance projects and resolves any upcoming problems. Additionally, Mr. Barkimer testified he does also maintain files and records of all the building maintenance requirements to reflect what activity is taking place, along with providing inventory of all of the equipment and/or materials, as well. The witness stated he also does serve on various committees at the institution, those being Health and Safety, Use of Force, and Local Control Review.

Mr. Barkimer then went on to identify Appellee's Exhibits A through H. When questioned about Appellee's Exhibit A, the witness explained this was the job audit report dated January 10, 2005, which he has reviewed and agrees with the report and the time spent on certain activities with the exception that since the closing of the Lima Correctional Institution, he still is in charge of six rental properties and the farm operations buildings which are situated on Lima Correctional Institution's land, which is contrary to the class concept for a Building Maintenance Superintendent 2 where it should be where only one is to oversee the maintenance and repair programs under "one" assigned adult correctional institution. Mr. Barkimer opined he is in charge of approximately one and one-half institutions and used this as his justification in filing the above noted appeal. When questioned if he has been in charge of any construction projects, answered when he first came over in July 2004 there was a "muffin grinder" which needed to be updated and built, which he was in charge of, but that he has not had any other projects since that time and basically is in charge of the maintenance and repair of the items around the institution itself.

Upon Appellee's counsel's questioning, Mr. Barkimer testified he did not actually perform any actual construction work, but acted more or less as a liaison between the contractors, the bids and the work.

The next witness to testify was Mr. Edwin Dunn, the Deputy Warden of Administration, and the direct supervisor of the Appellant, James Barkimer. Mr. Dunn testified he has been at Allen Correctional Institution since July 2004 and he also was displaced from Lima Correctional Institution where he held the past title of Deputy Warden of Special Services. Upon questioning, he testified that he was present in the hearing room and heard the testimony of the Appellant herein, and attested as to the veracity of his statements and assertions and agreed with the same. However, Mr. Dunn did note that he would characterize the overall work performed by the Appellant as a motivator for the repair, as opposed to actual construction.

Upon Appellees counsel's questions, the witness explained that Allen Correctional Institution is approximately twenty years old and that there is not a lot of construction taking place, but only again renovation repair and upkeep of the same. Further, he testified in December 2005 all of the power was turned off at the Lima Institution and he was not aware of any five-year plan other than having heard about it, but not seen it.

The last witness to testify was Ms. Bobbi Lind, a Human Resource Analyst for the Ohio Department of Administrative Services. Ms. Lind testified she has held her present position for approximately the last fifteen years and that she was the one who actually performed the audit of the Appellant's position. Moreover, the witness explained she found that Mr. James Barkimer was appropriately classified as a Building Maintenance Superintendent 2. When asked why, she explained the agency's rationale was essentially that the Building Maintenance Superintendent 2's position was more maintenance inclusive, as opposed to the Building Construction Superintendent being more construction oriented. While the witness did note that the two classifications are similar, it was her understanding and belief that the Building Maintenance Superintendent 2's position was a more appropriate fit for the Appellant herein.

FINDINGS OF FACT

There was no real discrepancy between the Appellant's characterization of the duties that he performed and those of the testimony of his supervisor, Mr. Edwin Dunn. Thus, as a matter of fact, the Appellant performed the duties about which he testified.

CONCLUSIONS OF LAW

This Board is required to perform several functions when determining the most appropriate classification for an Appellant coming before it. The Board must always review relevant classification specifications to determine which classification best describes the Appellant's actual job duties for the pertinent period of time. *Ford v. Ohio Department of Natural Resources* (1990), 67 Ohio App. 3d 755. In making this determination, the Board considers the classification specification and the job duties outlined therein, as well as the percentages of time the Appellant devotes to each group of job duties. *Klug v. Ohio Department of Administrative Services* (May 19, 1988), Franklin County 87AP-306, unreported, 1988 WL54277. The Board consideration, is not solely limited to the duties contained within the classification specification, but may also embrace other relevant facts by the affected parties. *Gordon v. Ohio Department of Administrative Services* (March 31, 1988), Franklin County 88AP-0122, unreported, 1988 WL37094.

As a general rule, the Appellant seeking a reclassification to a higher position must demonstrate that his or her respective duties substantially satisfy those of the higher classification. *Mounts v. Ohio Department of Administrative Services* (1984), 17 Ohio App. 3d 125; *Deist v. Kent State University* (May 23, 1978), Franklin County 78AP-28, unreported.

As was previously stated, the Appellant, James Barkimer, is currently classified as a Building Maintenance Superintendent 2, classification specification number 53134, but is seeking to be reclassified to a Building Construction Superintendent, classification specification number 53141. After a through review of the two above classification specifications, it is my recommendation that the Appellant was properly classified as a Building Maintenance Superintendent 2. During the testimony of the Appellant, he stated that he in fact supervised a Building

Maintenance Superintendent 1 and sixteen other tradesmen under his direct supervision. Furthermore, Mr. Barkimer testified he did spend approximately forty percent of his time supervising the operation of both building maintenance for the grounds of ACI, as well as seven rental properties and the farm operations of what was over at the Lima Institution, at an adjacent facility. Furthermore, Mr. Barkimer testified he does supervise and review and approves all the work schedules for all the subordinates in the following areas, plumbing, electrical, grounds maintenance, refrigeration and air conditioning, carpentry, locksmith, and general maintenance. Further, he testified that he also maintains and schedules of the maintenance repair of all the building's equipment and grounds and determines which repairs have the priorities and establishes a preventative maintenance schedule, as well. He also would inspect all the buildings and equipment for compliance with the appropriate codes including safety, health and security and writes necessary reports when needed. Additionally, he explained he also would compile information and submit reports to the Warden or to the Deputy Warden of Administration with regards to any equipment and purchase of supplies for the areas of his responsibility. Moreover, Mr. Barkimer added that he also was in charge of the inventory control of both the chemicals and tools and that he would from time to time serve on various committees within the institution.

When reviewing the Building Maintenance Superintendent 2's class concept and/or the section which is covered for the Department of Rehabilitation and Correction, it states:

To plan, coordinate and oversee all maintenance and repair programs for all shops and buildings under the jurisdiction of one assigned adult correctional institution and supervise all lower level grounds maintenance, building trades, building maintenance, automotive maintenance, mechanical trades and electronic technology personnel.

As can be seen by the class concept itself, this is essentially what the Appellant performed. However, it was argued by the Appellant that the class concepts states that he is to be under the jurisdiction of one assigned adult correctional institution and that he was actually doing two or in the very least, one and one half. Although the undersigned notes that he did take on additional duties, the Lima Correctional Facility was closed and remains closed and apparently being adjacent to the Allen Correctional Institution, parts of it have come under the

jurisdiction of Allen Correctional Institution. Thus, Appellant's argument was not persuasive to the undersigned in this regard.

However, for the sake of argument, one should look at the Building Construction Superintendent, and/or the series purpose of the same. The series purpose of a Building Construction Superintendent states:

The purpose of a Building Construction Superintendent occupation is to supervise and inspect construction, alteration and maintenance of public buildings.

As can be seen specifically by the series purpose, there is a heavy emphasis on the supervising and inspection of construction and that the Appellant herein did not perform that type of activity routinely. Moreover, even the job duties in the order of importance state that the Building Construction Superintendent supervises and inspects construction, alteration and maintenance of public buildings, and again the Appellant testified that he, with only one exception, did perform construction related job duties back in July of 2004 and that he typically did not do that on a day-to-day basis. Thus, the undersigned rejected the Appellant being reclassified to a Building Construction Superintendent.

Again, looking at the series purpose for the Building Maintenance Superintendent 2, it states:

At the second managerial level, incumbents supervise lower level supervisors and have independent responsibility for overall program of maintenance and repair for institution, transportation district central/central office, agency, fountain square complex, Beightler Armory or assigned buildings/grounds.

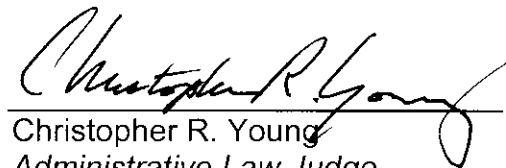
Thus, as can be seen by the series purpose of a Building Maintenance Superintendent 2, the emphasis is on maintenance and repair for an institution which essentially is what the job duties which the Appellant performed herein.

Therefore, after careful consideration of the evidence presented at the record hearing, and by a preponderance thereof, the classification specification of a Building Maintenance Superintendent 2, best describes the duties which the Appellant performs in his job.

James P. Barkimer
Case No. 05-REC-02-0048
Page 8

RECOMMENDATION

Therefore, it is my respectful **RECOMMENDATION** that the Appellant, James Barkimer, was **PROPERLY CLASSIFIED** as a Building Maintenance Superintendent 2, during the relevant time period in question and that the Appellant's appeal be **DISMISSED**.



Christopher R. Young
Administrative Law Judge

CRY:dIm