THOMAS E. PECK,

Grievant,

v. Docket No. 97-DOH-099

WEST VIRGINIA DIVISION OF HIGHWAYS/

WEST VIRGINIA DIVISION OF PERSONNEL,

Respondents.

DECISION

Thomas E. Peck, Grievant, filed this grievance against his employer, the West Virginia Division of Highways (DOH), on August 22, 1996. The West Virginia Division of Personnel (Personnel) became a party at Level III. Grievant alleges:

> My job position was audited by the WV Division of Personnel this past June. The decision was made that my job position is that of a Storekeeper II and no further review would be made. A detailed examination of my duties and responsibilities [sic] will reveal that the position is that of a Storekeeper III.

As relief, Grievant seeks to be reclassified as a Storekeeper III.

Grievant was denied relief at the lower levels of the grievance procedure. Grievant's appeal to Level IV was received by the Grievance Board on February 11, 1997. A Level IV evidentiary hearing was held at the Grievance Board's office in Elkins, West Virginia, on April 18, 1997. The case became mature for decision on June 10, 1997, with receipt of the Level III decision.

The class specifications for a Storekeeper II, in pertinent part, are provided below: Nature of Work:

> Under general supervision, at the full-performance level, performs duties in ordering, receiving, recording, storing, and shipping of materials, and equipment at a district, regional or state stockroom or warehouse. May oversee the work of lower-level storekeepers or other related positions. Performs related work as required.

Examples of Work:

> Solicits bids from vendors.

Prepares contracts for some purchases.

Locates and orders supplies and equipment as requested.

Files, updates, and retrieves invoices, receipts, requisitions, transfers, and other information.

Determines cost estimates of equipment or materials required.

Issues materials and equipment as requisitioned and directs their shipping and/or delivery.

Inventories equipment and supplies and assigns inventory numbers as required.

Directs the work activities of lower-level storekeepers, clerks, stock clerks, drivers and related positions.

Gr. Ex. 1.

The class specifications for a Storekeeper III, in pertinent part, are provided below:

Nature of Work:

Under general supervision, at the full-performance level, leads and participates in the ordering, receiving, recording, storing, and shipping of materials, and/or equipment in a state operated stockroom or warehouse. Performs related work as required.

Examples of Work:

Leads the purchasing, receiving, storing, and dispersingof supplies, materials, parts, and equipment.

Assigns work to subordinate personnel.

Reconciles physical and documented inventories.

Expedites the purchase of emergency supplies and equipment.

Invoices and posts federal property acquisitions.

Monitors volume of equipment and supplies to ensure adequate stock is on hand.

Gr. Ex. 2.

The following findings of fact were derived from the record.

FINDINGS OF FACT

1. Grievant is employed by (DOH), and is classified as a Storekeeper II. Specifically, Grievant works in the Tool Room in the Repair Shop of the Equipment Division.

2. When Grievant transferred to the position he retained his Storekeeper II classification. The person who performed the duties in the Tool Room before Grievant was classified as a Laborer, which is in a lower pay grade than Storekeeper II. Other duties have since been added to Grievant's position to justify the Storekeeper II classification.

3. Grievant completed an official Position Description Form which was evaluated by the Classification and Compensation Section of Personnel. The evaluation included two audits, one by Mr. Joe Thomas, Personnel Specialist, Personnel, and the other by Mr. Lowell Basford, Assistant Director of Personnel's Classification and Compensation Section. One of the audits performed was an on- site audit of Grievant's position and duties. Personnel concludedthat Grievant is properly classified as a Storekeeper II.

4. The class specification for Storekeeper III requires that persons assigned to the class typically perform in a lead work role overseeing the work of other employees.

5. Grievant does not perform in a lead work capacity. He does not direct other employees.

6. Typically, Grievant is responsible for soliciting bids from vendors, preparing contracts for

purchases, locating and ordering supplies as requested, maintaining invoice, receipt, requisition and transfer records, determining cost estimates of equipment or materials, issuing materials, and inventorying equipment and supplies. His predominant duty is purchasing parts, supplies and tools for use by the mechanics in the Tool Room.

DISCUSSION

For Grievant to prevail upon a claim of misclassification, he must prove by a preponderance of the evidence that his duties more closely match another cited personnel class specification than that under which he is currently assigned. See generally, Hayes v. W. Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). The Grievance Board has repeatedly held that class specifications are to be read in "pyramid fashion," i.e., from top to bottom, with the different sections to be considered as going from the more general/more critical to the more specific/less critical. Captain v. W. Va. Dept. of Health, Docket No. 90-H-471 (Apr. 4, 1991). Class specifications are descriptive only and are not meant to be restrictive. The mention of one duty orrequirement does not preclude others. W. Va. Admin. Rule, §4.04(a); Coates v. W. Va. Dept. of Health and Human Resources, Docket No. 94-HHR-041 (Aug. 29, 1994). Even though a class specification does not include all the actual tasks performed by a grievant, that does not make it invalid. W. Va. Admin. Rule, §4.04(d). It is the predominant duties of a position which are class-controlling. Broaddus v. W. Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990).

The key to the analysis is to ascertain whether Grievant's current class specification constitutes the "best fit" for his required duties. Simmons v. W. Va. Dept. of Health and Human Resources/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991). In this instance, it must be determined whether Grievant's current position description fits his job duties. See, Ferrell v. Bureau of Employment Programs, Docket No. 93-BEP-449 (July 29, 1994). Finally, Personnel's interpretation and explanation of the class specifications at issue, if the language is determined to be ambiguous, should be given great weight unless clearly erroneous. See, W. Va. Dept. of Health v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681 (1993).

Grievant asserts that he is misclassified, and that his position is similar to that of another DOH employee, Mr. Hobert Ray Unrue, Storekeeper III. The record will not support a finding that Grievant is misclassified or that his position and duties are similar to Mr. Unrue's.

Mr. Unrue has purchasing responsibility, accountability,storage and inventory support for new equipment and parts in support of a communications section; a Statewide operation. Grievant's responsibility is not as extensive; his primary duty is ordering tools or parts for the mechanics in the Equipment Division. Unlike Mr. Unrue who “has total purchasing responsibility for the communications section which is a Statewide operation,” (See footnote 1) Grievant is third in the chain of command, and his primary responsibility is ordering shop supplies (nuts, bolts, and other miscellaneous parts) for the shop. (See footnote 2)

Mr. Unrue performs lead worker functions consistent with the Storekeeper III class specification, duties which Grievant does not perform. Mr. Basford testified during the Level III hearing that a lead worker directs, guides, trains, advises, and consults with three or more other employees. Grievant does not perform these types of duties.

Grievant has misapplied the word “lead”. While Grievant may take a “lead role” in ordering parts on his own initiative, and is a good employee, this definition does not satisfy the Storekeeper III class specification.

In addition to the foregoing findings of fact and narration, it is appropriate to make the following formal conclusions of law.

CONCLUSIONS OF LAW

1. In nondisciplinary matters Grievant must prove all of theallegations constituting his grievance by a preponderance of the evidence. Owens v. W. Va. Alcohol Beverage Control Comm'n, Docket No. 90-ABCC-003 (Apr. 30, 1990).

2. The key to the analysis is to ascertain whether Grievant's current classification constitutes the "best fit" for his required duties. Simmons v. W. Va. Dept. of Health and Human Resources/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991).

3. In this instance, it must be determined whether Grievant's current class specification fits his job duties. See, Ferrell v. Bureau of Employment Programs, Docket No. 93-BEP-449 (July 29, 1994).

4. Personnel's interpretation and explanation of the class specifications at issue, if the language is determined to be ambiguous, should be given great weight unless clearly erroneous. See, W. Va. Dept. of Health v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681 (1993).

5. Grievant failed to prove by a preponderance of the evidence that he is misclassified.

Accordingly, the grievance is **DENIED**.

Any party may appeal this decision to the "circuit court of the county in which the grievance occurred," and such appeal must
be filed within thirty (30) days of receipt of this decision. W. Va. Code §29-6A-7. Neither the West Virginia Education andState Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

Dated: 9/29/97 _____

JEFFREY N. WEATHERHOLT

ADMINISTRATIVE LAW JUDGE

Footnote: 1

Tr. at 51-52.

Footnote: 2

Tr. at 62.