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CITY OF SEATTLE

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CIVIL SERVICE COMMISSION

BEFORE THE CIVIL SERVICE COMMISSION FOR THE CITY OF SEATTLE

IN RE THE APPEAL OF:

PAMELA ACKLEY-BELL,

Appellant,

vs.

SEATTLE DEPARTMENT OF PARKS
AND RECREATION

Respondent.

MEMORANDUM DECISION

CSC Appeal No. 02-01-002

PROCEDURAL BACKGROUND

This matter initially came before the City of Seattle Civil Service Commission on Appellant's appeal of her termination from her position as a manager with the City's Department of Parks and Recreation. The Department filed a motion for summary judgment, arguing that the Appellant was a probationary employee at the time of her termination and therefore, the Commission did not have jurisdiction to hear the appeal. The Commission ruled in favor of the Department and dismissed Appellant's appeal.

Appellant thereafter sought review of the Commission's decision by writ of certiorari in King County Superior Court. By decision dated April 10, 2003, the Superior Court issued an order on writ, remanding the matter to the Commission for a full hearing on the issue of whether

1 Appellant was a probationary employee at the time of her termination from her position with the
2 City's Department of Parks and Recreation.¹

3 A full hearing on Appellant's probationary status was held by the Commission on August
4 11, 2003. The Commission heard testimony from several witnesses. Documentary evidence was
5 introduced. The parties submitted argument and pre-hearing briefs.

6 FINDINGS OF FACT

7 In 2000, Appellant was employed as an Administrative Staff Analyst with the City's
8 Department of Parks and Recreation ("the Department"). In the spring of 2000, Appellant's
9 direct supervisor, Lewis Turner, learned that the Department intended to reorganize certain of its
10 divisions. (Turner Direct Testimony). Under the then current organization and under the
11 proposed reorganization, Appellant was supervised by Lewis Turner, who in turn answered to
12 Sarah Welch, Financial and Administrative Services Director. (Department Exhibit No. 2).
13 Sarah Welch reported to the Superintendent of Parks, Ken Bounds. (Department Exhibit No. 2).

14 As part of the reorganization (initially proposed to take effect with the "new budget," the
15 effective date of which was January 1, 2001), the Department intended to increase prospectively
16 the duties, or body of work, assigned to the position occupied by the Appellant. (Department
17 Exhibit No. 1). Appellant's position was to be reallocated from an Administrative Staff Analyst
18 position to a general manager position. (Department Exhibit No. 2). This would have been a
19 promotion for the appellant, with a commensurate salary increase. (Department Exhibit No. 2).

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23 ¹ In its order, the Court noted that the Appellant had raised numerous factual questions about whether a selection process had occurred and the irregularities in processing the qualifications audit. These questions, in the mind of the

1 Consistent with the Personnel Rules, on or about June 26, 2000, Appellant and her direct
2 supervisor, Lewis Turner, submitted to City Personnel a Position Description Questionnaire
3 ("PDQ") describing the body of work that the Department intended for Appellant's new position.
4 (Department Exhibit No. 1). A PDQ is a required so that the City's Personnel Department may
5 properly assess the position and the duties to determine if it should be reclassified.

6 For reasons not entirely explained at hearing, the Superintendent of Parks decided to
7 implement the Department's reorganization, including adding duties to the body of work for
8 which Appellant was responsible, on July 1, 2000, rather than January 1, 2001, as originally
9 intended. (Turner Testimony). As a result of this management decision, Appellant began
10 performing new general manager duties with no additional pay in July 2000. (Turner
11 Testimony).

12 Approximately one month later, on August 9, 2000, City Personnel issued a
13 Classification Determination Report (Report No. 00-4391) recommending that the position
14 occupied by Appellant be "reallocated" from Administrative Staff Analyst to "Manager 1,
15 General Govt," a non-exempt position. (Department Exhibit No. 2). The Classification
16 Determination Report set forth the "2001 Budget" as the effective date of the "reallocation."
17 (Department Exhibit No. 2). The Commission takes judicial notice of the fact that the City's
18 2001 Budget was effective on January 1, 2001.

19 Approximately six weeks later, the Personnel Department formally approved, through the
20 issuance of a Budget Classification Determination Report, the "reallocation" (Department
21 Exhibit 2)" of Appellant's position from Administrative Staff Analyst to "Manager 1, General
22 Government." (Department Exhibit No. 3). Consistent with the City's budget authority and the

23

Court, could not simply be ignored.

1 Personnel Rules, the Classification Report noted that the creation or reallocation of positions
2 must be approved of and legislated in the City Council's adopted budget. (Department Exhibit
3 No. 3). The effective date of the City's budget, January 1, 2001, did not fall on a regular
4 workday.

5 Six months after Appellant had begun her new duties, the Department "appointed"
6 Appellant to "the reclassified Manager 1 position." The effective date of Appellant's
7 appointment, according to Ms. Welch, was the first day of the first pay period in 2001, or
8 January 3, 2001. (Appellant Exhibit No. 11; Department Exhibit No. 4). This same day,
9 Appellant received a salary increase consistent with that of a Manager 1 salary. (Department
10 Exhibit No. 4; Appellant Exhibit No. 11). Despite having worked as a Manager 1 since July 1,
11 2000, Appellant received no additional or out-of-class pay for the work performed between July
12 2000 and January 2001, until after this Commission had initially dismissed Appellant's appeal.
13 (Appellant Exhibit No. 22). This decision to appoint Appellant to the new position was made in
14 advance of the completion of a qualifications audit by the Personnel Department -- a procedure
15 required by the Personnel Rules to "select" an incumbent for a new position. (Appellant Exhibit
16 No. 16; Department Exhibit No. 7).

17 On April 11, 2001, some three months after Appellant was appointed to the Manager 1
18 position by the Department, Gerry Asp, the Department's Personnel Specialist, finally submitted
19 a Qualifications Audit to the Personnel Department, even though he was "unsure" if an audit was
20 necessary. (Department Exhibit No. 5). At the hearing, Mr. Asp had no memory of submitting
21 this form, could not explain its significance, nor could he explain why it was submitted so many
22 months late. (Direct Testimony of Asp). The Qualifications Audit, and hence Appellant's
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1 appointment, was approved by Personnel one day later, on April 12, 2001. (Department Exhibit
2 No. 7).

3 Fifteen months after Appellant began her new duties, Sarah Welch, Finance and
4 Administration Director for the Department, notified her senior staff on September 25, 2001, to
5 complete employee evaluations. (Appellant Exhibit No. 17). She asked Lewis Turner (even
6 though he had been transferred to another Division within the Department), as Appellant's
7 manager for most of that year, to complete Appellant's evaluation. (Appellant Exhibit No. 17;
8 Turner Testimony). This was the only performance evaluation Appellant received between July
9 2000 and her termination in January 2002.

10 On December 1, 2001, Lewis Turner completed Appellant's Annual Employee
11 Performance Appraisal for the period of November 1999 through December 2001. (Appellant
12 Exhibit No. 7). Appellant received an "excellent" rating on every performance element.
13 (Appellant Exhibit No. 7). The Performance Appraisal was reviewed by Ms. Welch and
14 discussed with Appellant. (Appellant Exhibit No. 7).

15 Lewis Turner did not consider Appellant to be a probationary employee. (Turner
16 Testimony). He received no routine monthly reminders to evaluate the Appellant's performance
17 as was customary for probationary employees. (Turner Testimony). Appellant's name did not
18 appear on any Parks Department listing of probationary employees. (Turner Testimony).
19 Accordingly, Mr. Turner conducted no probationary evaluations of Appellant's performance.
20 (Turner Testimony). There is no evidence in the record that the Department ever informed
21 Appellant that it considered her to be a probationary employee. There is no evidence in the
22 record that Appellant was ever told when her probationary period began.

1 On December 11, 2001, ten days after Appellant's supervisor completed her Annual
2 Performance Appraisal with ratings of overall excellence, Ms. Welch informed Appellant by
3 letter that she "failed her probation" and that she had been placed on paid Administrative Leave
4 from December 7 through December 25, 2001. (Department Exhibit No. 8). The Department's
5 rationale for placing Appellant on paid administrative leave was to ease Appellant's transition
6 during the holiday season. (Anderson Testimony). The parties do not dispute the January 1,
7 2002 effective date of Appellant's termination. (Department Exhibit No. 9).

8 On January 14, 2002, the Superintendent of Parks informed Appellant that the
9 Department had agreed to continue to pay for her medical and dental benefits until March 31,
10 2002. (Department Exhibit No. 9).

11 CONCLUSIONS OF LAW

12 The City's Personnel Rules² ("Personnel Rules" or "Rules") accommodate the change in
13 the nature of positions by providing for ways in which a position may change in keeping with the
14 duties assigned to it. According to the Rules, new positions may be "created" and existing
15 positions may be "reclassified" or "reallocated." The Rules draw a distinction between a
16 reallocation and a reclassification. A "reallocation" is a change to a position brought about by
17 planned, deliberate action on behalf of management. In other words, a reallocation occurs when:

18 ...an appointing authority or designated representative, deliberately and usually
19 prospectively, assigns a new body of work to a classified position, and there is a
consequent classification change....

20 Personnel Rule 2.3.300. In effect, a reallocation is the creation of a new position, with a new
21 salary range.

22
23 ² The Commission applies the City's Personnel Rules Revised December 1998 -- those in effect during the series of
events giving rise to Appellant's appeal.

1 A "reclassification," on the other hand, is management's recognition of how a position
2 has changed into a different position over time, due to a gradual accretion of new duties. The

3 Rules define "reclassification" as:

4 the placement of a position in a different classification due to the gradual accretion of
5 duties that substantively change its nature and scope.

6 Personnel Rule 1.2.100; 2.3.200. The Rules recognize that an incumbent who has been
7 performing duties that have been added to a position gradually over time, need not serve a new
8 probationary period. An incumbent of a position that has been reclassified will thus retain the
9 same status as he or she previously held.

10 When a position is reclassified because of a gradual change in the nature, scope or
11 complexity of the duties, the incumbent will have the same status (i.e. probationary or
12 regular) as previously held.

13 Rule 2.3.200(A).

14 The Rules, however, are different with respect to the application of probationary periods
15 to reallocated positions. The Personnel Guidelines explain that because a reallocation is akin to
16 the creation of a new position, a selection process should be implemented. If an incumbent is
17 occupying the position, the incumbent may be appointed to the position if he or she possesses the
18 minimum qualifications for the position -- to be determined by a Qualifications Audit conducted
19 by the Personnel Department. If the reallocation is to a classification that has a salary range
20 higher than the previous class and the incumbent is appointed to the position, such appointment
21 is treated as a promotion. The incumbent appointed would then be subject to a new probationary
22 period, not to exceed one year.

23 Without a factual basis to conclude otherwise, it would appear that the classification
action with respect to the position occupied by Appellant was a straightforward reallocation.

1 Indeed, the Department made a conscious decision to add duties to Appellant's position as part of
2 a planned reorganization. However, the facts presented at hearing show that this was anything
3 but a straightforward reallocation.

4 Based on the facts presented, the Commission concludes that the classification action in
5 this case began as a reallocation, with an effective date of July 1, 2000 -- "the date that the
6 position's supervisor, manager, or appointing authority assign[ed] a new body of duties thereto."
7 Rule 2.4.100(C).³ However, what began as a reallocation did not remain a reallocation; the
8 Department ultimately treated Appellant as if her position had been reclassified.

9 Soon after its intention to reorganize was made known, the Department began to
10 disregard the Personnel Rules. Appellant and her supervisor completed the PDQ with the
11 understanding that Appellant would remain in the position and submitted it to Personnel that
12 June. Appellant began the additional work in July without any "out-of-class" pay -- a full six
13 months before the Department received its budgetary authority for the new position.
14 Immediately after receiving its budget authority, the Department "appointed" Appellant to the
15 position and gave her a pay raise. Three months later -- a full nine months after Appellant had
16 begun the work of the new position -- the Department finally submitted the Qualifications Audit
17 to Personnel -- not knowing whether it was even necessary. The Department not only offered no
18 explanation for the delay in submitting the Qualifications Audit to Personnel -- the very action
19 formally required to "select" Appellant for the position -- but also ignored their own internal

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22 ³ If the Commission were to adopt as the effective date for the reallocation that date confirmed by the Classification
23 Report as the Personnel Rule suggests, the effective date would be, at the very latest, the effective date of the "2001
Budget," or January 1, 2001. Had Appellant been required to serve a one year probationary period under this
scenario, it would have begun on January 1, 2000, and ended on December 31, 2001, one day before the day she was
terminated.

1 procedures with respect to hiring and selection timelines.⁴

2 The evidence supports the conclusion that the Department believed at the time that the
3 classification action was in fact a reclassification rather than a reallocation. In response to a
4 question by Lewis Turner regarding the "reclassified Manager 1 position," Sarah Welch
5 confirmed by email dated January 9, 2001 that it would be a "routine reclass." The Department's
6 understanding that this action was in fact a reclassification is consistent with Lewis Turner's
7 belief that Appellant was not a probationary employee because her position had been
8 reclassified. Consistent with this too was the Department's failure to place Appellant's name on a
9 probationary evaluation list, its failure to evaluate her during her probation, its failure to inform
10 Appellant that she was probationary, and its failure to inform her as to when her probationary
11 period began.⁵

12 It is undisputed that the Department selected Appellant and worked Appellant in the
13 position before it was created. The evidence supports the conclusion that the Department had
14 "selected" Appellant for the position in July 2000 -- when the Department decided to implement
15 the reorganization despite having no budget authority to do so.⁶ The Department then
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19 ⁴ The Department's own hiring timelines set forth a 90-day period in which hires are to be completed. "Completing
20 our hires in a timely manner is essential for maintaining our workforce at budgeted levels, for maintaining good
21 public relations with all job applicants, both internal and external, and is an expected standard business for all Hiring
22 Supervisors." (Appellant Exhibit No. 1). The Department's Workplace Expectations, issued in March 1997, state
23 that, among other things, the Department "will select, develop and help make employees successful
by...[a]nticipating vacancies and filling positions in a timely manner, in compliance with applicable policies...."
(Appellant Exhibit No. 5).

⁵ The only action of the Department inconsistent with this conclusion was the Department's statement that her
employment was terminated because she failed her probation.

⁶ The Department never implemented a selection process for the new position. The Department conducted no
competitive selection process; it did not advertise for the position or allow any other employee to compete for it.

1 "appointed" her to the position and increased her salary -- well before it had formal assurance
2 from Personnel that the Appellant was in fact qualified to do the work of the Manager 1 position
3 as required by the Personnel Rules. There is no evidence in the record that the Department
4 attempted to assess Appellant's abilities relative to the responsibilities of the position -- the
5 purpose of the probationary period.

6 The purpose of a probationary period is to extend the selection process such that the
7 employee is required to demonstrate his or her ability to perform the job for which he or she was
8 hired. During that one-year period the employer is to assess the employee's ability and retain the
9 employee only if the employee's performance is satisfactory -- before civil service protections
10 apply. Hence, probationary evaluations are conducted and supervisors receive reminders to
11 evaluate employees periodically during that year. The Rules limit probationary periods such that
12 each probationary period shall not exceed one year of actual service. The Rules define probation
13 as:

14 [a]n extension of the selection process, following initial appointment to a position or
15 subsequent appointment to a classification in which an employee does not have standing,
16 during which period the employee is required to demonstrate his or her ability to perform
the job for which he or she was hired. Each probationary period shall not exceed one
year of actual service.

17 Personnel Rule 1.2.100 (emphasis added).

18 The Department did not use the opportunity for a probationary period here as intended.
19 There was no meaningful selection process or an evaluation of the Appellant's abilities relative to
20 her new responsibilities. In fact, the Department had selected Appellant such that her actual
21 service in her position well exceeded one year. Appellant was never told that she would be
22 required to serve a new probationary period.

1 The evidence presented at hearing supports the conclusion that the Department failed to
2 follow the Personnel Rules and manipulated the process to its own ends. A highly technical
3 interpretation of the Personnel Rules as advocated by the Department in this case would not only
4 be inconsistent with the spirit of the Personnel Ordinance and Rules, but would work a great
5 hardship on Appellant. This Commission will not support such an interpretation when the
6 Department itself failed to follow the very Rules it now turns to in support of Appellant's
7 termination.


8 **CONCLUSION**

9 The Commission concludes that the classification action in this case began as a
10 reallocation with an effective date of July 2000, or at the very latest with an effective date of the
11 2001 Budget, or January 1, 2001. Because the Department treated the action as a reclassification
12 and failed to follow the Personnel Rules, the Commission concludes that the classification action
13 in this case was in fact a reclassification, pursuant to which no probationary period was required.
14 In either event, Appellant was not probationary at the time she was terminated from her
15 employment on January 1, 2002.

16
17 The Commission hereby reverses its earlier order of March 26, 2002 and sets Appellant's
18 appeal on the merits of her termination for full hearing on November 20, 2003.

19 DATED this 2nd day of October, 2003.

20
21 FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

22 
23 Glenda J. Graham-Walton, Executive Director

**CITY OF SEATTLE
CIVIL SERVICE COMMISSION**

**Affidavit of Service
By Mailing**

STATE OF WASHINGTON }
COUNTY OF KING }

MARY E. EFFERTZ, deposes and states as follows:

That on the 3rd day of October, 2003, I deposited a copy of Memorandum Decision in the U.S. mail, first class postage prepaid, addressed to:

Pamela S. Ackley-Bell
c/o Bifford S. Crane
Attorney at Law
4050 SW Admiral Way, #A
Seattle, WA 98116

And copies of same in interdepartmental mail addressed to:

Jean Boler, Assistant City Attorney, Law Department

In the appeal of:

Pamela Ackley-Bell v. Parks & Recreation Dept.

CSC No. 02-01-002

DATED this 3rd day of Oct, 2003



MARY E. EFFERTZ

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SEATTLE CITY ATTORNEY

WORKING PAPERS

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

Pamela Ackley-Bell

Petitioner,

vs.

Civil Service Commission of the City of
Seattle, Municipal Corporation, Seattle
Department of Parks and Recreation,

Defendants.

No. 02-2-11666-3

ORDER ON WRIT

THIS MATTER came before the court on Petitioner's Motion for Writ of Review. The court considered the record below, the briefs of the parties and argument of counsel.

Reviewing the Commission's decision under an arbitrary and capricious standard, this court must determine whether the Commission's actions were willful and unreasoning, without consideration and in disregard of the facts and circumstances. *Pierce Cy. Sheriff v. Civil Ser. Comm'n*, 98 Wn2d 690, 695 (1993). In this particular case, Petitioner's appeal to the Commission was dismissed on summary judgment after a pre-hearing conference and expedited briefing.

Petitioner argued below and to this court that she is appealing the determination of her probationary period based on the actions of her employer and the fact that she was performing the new body of work before the City confirmed its selection of her.

Civil Service Commission rule 7.01 allows any employee to appeal the question of her probationary status. The Rule is as follows:

ORDER

Page 1

Judge Mary I. Yu
King County Superior Court
516 Third Avenue
Seattle, WA 98104
(206) 296-9275

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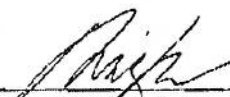
(2) Any employee who is alleged to be probationary by the disciplining department may appeal to the Commission the questions of his/her probationary status and whether the procedures for discharge of probationers, as found in the Personnel Rules, were properly followed.

Petitioner sought to argue that her probationary status began when she assumed the actual work of the new position. The City argues that the position can only be filled by a selection process and that she was not selected for the job, even though she performed the work, because the job had not yet been classified under the budget and City's personnel rules.

Without reaching the merits of the underlying personnel action, this court does not believe that the matter before the Commission should have been resolved on summary judgment on a jurisdictional basis. Petitioner's trial brief below and here raises numerous factual questions about the whether a selection process had occurred and the irregularities in processing the qualifications audit that simply cannot be ignored. The transcript of the pre-hearing conference also indicates that the hearing officer focused on the date of reclassification without regard to the underlying facts of her actual duties, the delay in filing the qualifications audit, and the circumstances surrounding the entire process.

Petitioner should have been allowed to conduct discovery and to present facts at a hearing on her probationary status. The Commission's order on motion for summary judgment is vacated and the matter is remanded to the Commission for a full hearing.

IT IS SO ORDERED this 10 day of April 2003.



Judge Mary I. Yu
KING COUNTY SUPERIOR COURT

ORDER

Page 2

Judge Mary I. Yu
King County Superior Court
516 Third Avenue
Seattle, WA 98104
(206) 296-9275

1 **BEFORE THE CIVIL SERVICE COMMISSION FOR THE CITY OF SEATTLE**
2 **CITY OF SEATTLE**

3 **MAR 26 2002**

4 **IN RE THE APPEAL OF:**

5 **PAMELA ACKLEY-BELL**

6 **Appellant**

7 **v.**

8 **SEATTLE DEPARTMENT OF
PARKS AND RECREATION**

9 **City of Seattle**

10 **Respondent**

CIVIL SERVICE COMMISSION

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

CSC Appeal No. 02-01-002

11 **THIS MATTER** comes before the Seattle Civil Service Commission upon a Motion For Summary
12 Judgment filed by Respondent, Seattle Department of Parks and Recreation (the "Department"). In Motion
13 For Summary Judgment proceedings, all facts are to be considered in a light most favorable to the non-
14 moving party.

15 The Department contends that Pamela Ackley-Bell (appellant) was discharged while her
16 employment status was probationary and that, therefore, she has no standing to appeal her discharge to the
17 Civil Service Commission. Appellant contends that she is appealing her probationary status and that she
18 was not on probation at the time of her discharge. Under CSCR 7.01(2), an employee who is alleged to be
19 probationary by the disciplining department may appeal to the Commission the question of his/her
20 probationary status. Therefore, the Commission has jurisdiction to review the question of whether the
21 appellant was on probation at the time of her termination.

22 **HISTORY**

23 Appellant was a regular employee working in the title of Administrative Staff Analyst in the
24 Department of Parks and Recreation. According to Appellant's Response To Motion, on or about July 1,
25 2000, after a reorganization of the Finance and Administrative Division, appellant's immediate superior,

1 Lewis Turner, assigned a new body of work to the appellant. Appellant argues that this assignment is
2 covered under Personnel Rule 2.3.300 - Reallocation, and that the assignment of the new body of work
3 should be viewed as the date of the appellant's "reclassification." Therefore, her probationary status would
4 have ended one year later, or June 30, 2001. Appellant argues that a termination after this date constitutes a
5 termination of a regular employee and, therefore, the Civil Service Commission has jurisdiction to hear an
6 appeal of the disciplinary action.

7 A new PDQ which revised appellant's duties was submitted to the Classification and
8 Compensation Unit for review. Classification Determination Report 00-4391 establishes the new duties of
9 the existing Administrative Staff Analyst position which the appellant occupied as those of a Manager I.
10 The report further establishes that Personnel Rule 2.3.300, which applies to reallocations as opposed to
11 reclassification, would apply, and establishes that the incumbent, which was the appellant in her position as
12 Administrative Staff Analyst, would occupy the position on a "temporary" basis. In accordance with the
13 recommendation of the Classification Determination Report, the position was reallocated from
14 Administrative Staff Analyst to Manager I, effective in the 2001 Budget.

15 Department therefore, contends that the actual position was not available for occupation prior to its
16 enactment in the 2001 Budget and further contends that appellant did not actually occupy the position until
17 January 3, 2001, when the new salary for the duties and responsibilities assigned to the position became
18 effective. Department, in its Reply to appellant's Opposition To Motion, asserts that appellant was not
19 actually selected for the position until April 12, 2001, when the required selection process, in the form of a
20 "Qualifications Audit" was completed. Department argues that, because appellant was not actually selected
21 for the position until April 12, 2002, there should be no question as to the appellant's probationary status at
22 the time of her discharge. Finally, Department notes that appellant was provided with due notification that
23 she had failed her probationary period on December 7, 2001. At the time she was notified of her discharge,
24 appellant was put on administrative leave for a two week period. Even had her probationary period ended
25 on January 1, 2002, the two week administrative leave would have still been completed within a year.

1 Appellant requested that her administrative leave be continued through the holidays and the
2 department consented. Consequently, the effective date of her dismissal, as noted in a December 11, 2001
3 Separation Report signed by Sarah Welch, as well as a January 14, 2002 letter from Parks Superintendent
4 Ken Bounds, was established as January 1, 2002.

5 Appellant alleges that whether her classification became effective on July 1, 2000, when she was
6 assigned the tasks of a higher level position, or whether it became effective on January 1, 2001, when the
7 2001 Budget took effect, she was still a regular employee with Civil Service appeal rights on January 1,
8 2002.

9 The Qualifications Audit conducted by the Department, and completed and signed on April 12,
10 2001, serves as the "selection process" required for filling a position under the reallocation rule. Its
11 purpose is to determine whether the incumbent is qualified for the position. The result of this audit was
12 that appellant was "qualified" to fill the position. The Audit also contained a note that it was to become
13 effective on the date of the reclassification.

14 The Commission, having reviewed the record and having requested additional information in the
15 form of the City's Qualifications Audit, signed 4/12/01 on behalf of the Department's Personnel Director,
16 of which request the parties have been apprised, hereby enters the following

17 **FINDINGS OF FACT**

- 18 1. Prior to being assigned to perform the duties of a higher level position on or about July 1, 2000,
19 appellant was employed by the Seattle Department of Parks and Recreation as an Administrative
20 Staff Analyst.
- 21 2. Appellant was a regular employee while employed as an Administrative Staff Analyst with rights
22 to appeal disciplinary actions to the Civil Service Commission.
- 23 3. A reorganization of the Finance Division and Administrative Division of the Department resulted
24 in the Department's request for a reallocation of the appellant's position in the 2001 Budget.
- 25

- 1 4. Allocations (or reallocations) of positions established through the budget process become effective
- 2 on the first day of the budget year for which they are requested or, in this case, January 1, 2001.
- 3 5. Appellant's position was reallocated as opposed to having been reclassified.
- 4 6. Personnel Rule 2.3.300 which governs the reallocation of positions applies in this instance.
- 5 7. Personnel Rule 2.3.300 requires that a selection process occur before a position can be filled.
- 6 8. The Qualifications Audit performed for the purpose of qualifying the appellant to fill the position
- 7 of Manager I serves as the selection process required by Personnel Rule 2.3.300.
- 8 9. The Qualifications Audit was completed and signed on April 12, 2001.
- 9

10 CONCLUSIONS OF LAW

- 11 1. The reallocation process differs from the reclassification process in that, among other things, a
- 12 selection procedure is required prior to anyone occupying the position.
- 13 2. The reallocation process does not require a public hiring process, but rather only requires that "a
- 14 selection process" occur.
- 15 3. A Qualifications Audit qualifies as a selection process in the reallocation process.
- 16 4. An employee cannot begin probation until he or she is formally selected for a position.
- 17 5. Appellant held regular employment status as an Administrative Staff Analyst until she was
- 18 formally selected for the position of Manager I as a result of the Qualifications Audit.
- 19 6. The assignment of higher level duties prior to her formal selection for the Manager I position did
- 20 not change the status of her actual job title, as Administrative Staff Analyst until she was formally
- 21 selected for the Manager I position and appointed to it.
- 22 7. Classification Determination Report 00-4391 establishes that the appellant (incumbent) was an
- 23 Administrative Staff Analyst occupying the position of Manager I on a temporary basis.
- 24 8. The occupation of the Manager I position on a temporary basis is interpreted to mean that appellant
- 25 had not been selected for the position and was, in fact still classified at her regular level.

- 1 9. Appellant was not actually selected for the Manager I position, or appointed to it, until completion
2 of the Qualifications Audit on April 12, 2001.
- 3 10. A note on the Qualifications Audit that it is to become effective on the date of the reclassification is
4 moot because the position was not reclassified, rather a reallocation occurred in the budget process.
- 5 11. Personnel Rule 2.3.300 notes that reallocations are generally prospective and are so enacted.
- 6 12. Appellant remained classified as an Administrative Staff Analyst until the selection process and
7 appointment process was completed.
- 8 13. While appellant may have been temporarily performing the duties of a Manager I prior to her
9 actual selection and appointment to the position, her job title did not change until the selection
10 process was completed. Any higher level work assigned to her in her regular Administrative Staff
11 Analyst title would have to be viewed on an out-of-class or a limited term assignment basis.
- 12 14. Personnel Rule 2.3.300 clarifies that an incumbent, or the appellant in this case, cannot be
13 considered as having been selected for and appointed to a reallocated position by establishing a
14 selection process as required.
- 15 15. Personnel Rule 2.3.300 specifically notes that, should the incumbent not be selected, lay-off
16 procedures are to be implemented.
- 17 16. Lay-off procedures can only be implemented for regular employees. Therefore the rule must be
18 interpreted to mean that the appellant had to have been a regular employee in her regular title of
19 Administrative Staff Analyst title until selection occurred.
- 20 17. Appellant's probation began upon her actual selection for and appointment to the position on April
21 12, 2001 and ended one year later, on or about April 11, 2002.
- 22 18. Prior to April 12, 2001, appellant held regular employment status as an Administrative Staff
23 Analyst working out-of-class as a Manager I.
- 24 19. The question of whether appellant's probation was completed on July 1, 2001, January 1, 2002 or
25 January 3, 2002 (when her higher compensation level took effect) is moot.

1 **DECISION**

2 According to Personnel Rule 2.3.300, an employee, irrespective of his or her status as an
3 incumbent, cannot actually occupy a position until a selection process occurs and a resultant appointment is
4 made. Absent this process, the incumbent employee remains at his or her prior classification level, and
5 performs the higher level duties on a temporary, out-of-class or limited term assignment basis. Therefore,
6 appellant continued to be classified as an Administrative Staff Analyst until she was formally selected for
7 and appointed to the reallocated Manager I position as a result of the April 12, 2002 Qualifications Audit.

8 Classification Determination Report 00-4391, and the 2001 Budget process related to the
9 establishment of the Manager I position, as a reallocation, refer only to the position itself, and not to the
10 occupant of that position. These two elements should not be confused. Had the appellant not been
11 selected for the position when the Qualifications Audit was completed, on April 12, 2001, a lay-off notice
12 would have been prepared, in accordance with Personnel Rule 2.3.300. Such notice would have recognized
13 and established, by its very existence, appellant's status as a regular employee with full civil service rights
14 as an Administrative Staff Analyst.

15 Department, in its Reply to Opposition To Motion correctly raises the issue of the required
16 selection process. This process cannot be ignored because it is the defining factor in determining when the
17 appellant was actually selected for the position and, hence, appointed to it. The probationary period begins
18 when an employee is appointed to a new position, after a selection process has occurred. Therefore,
19 appellant's probationary period began on or about April 12, 2001, and she was clearly still on probation at
20 the time of her discharge, effective January 1, 2002.

21 The Commission does not have jurisdiction to hear appeals of disciplinary actions filed by
22 probationary employees.

23
24 Department's Motion for Summary Judgment is **GRANTED**.

25 This appeal is dismissed with prejudice.

1 FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

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Ken Morgan
Ken Morgan, Chairperson

3/26/02
Date

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Kenneth M. Lowthian
Kenneth M. Lowthian, Commissioner

MAR. 26, 2002
Date

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Ellis H. Casson
Ellis H. Casson, Commissioner

3/26/02
Date

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