

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

s29 application for hearing of an industrial dispute

Samuel Maurice Reid

(T13526 of 2009)

and

The Minister administering the State Service Act 2000

DEPUTY PRESIDENT TIM ABEY

HOBART, 27 July 2010

Industrial dispute - translation review - team leader - primacy of Statement of Duties - Best Fit - Band 3 confirmed - order issued

REASONS FOR DECISION

[1] On 15 September 2009, Samuel Maurice Reid, (the applicant), applied to the President, pursuant to s.29(1) of the *Industrial Relations Act 1984* (the Act) for a hearing before a Commissioner in respect of an industrial dispute with the Minister administering the State Service Act 2000 (the employer) arising out of a review of band translation.

[2] A hearing commenced in Ulverstone on 26 May 2010. At the hearing Ms H Jordan appeared for the employer with Sergeant G Carey. Mr Reid represented himself.

[3] In this matter the applicant seeks a review of his band translation under the terms of the *Tasmanian State Service Award* (the Award). The review process is found in Appendix A Translation Arrangements – Section 3 Review Process.

[4] Mr Reid is employed as a Team Leader attached to Western District Prosecution Services in the Department of Police and Emergency Services. Under the previous Award he was classified at Level 4. Mr Reid translated, on a point to point basis, to Band 3 (B3) of the General Stream of the Award.

[5] Mr Reid sought a review of this translation, submitting that the descriptors of B4 more accurately describe his role on a *best fit* basis.

[6] The following documentation is relevant to the process that followed.

- Letter from Commander Smith dated 18 December 2008.¹
- Response from the employer dated 19 December 2008 concerning the correspondence from and discussions with Commander Smith.
- Notification of outcome of Internal Agency Review Process dated 2 March 2009. The application was unsuccessful.
- Classification review Analysis, conducted by Public Sector management Office [PSMO].²

¹ MFI 2

² MFI 3

[7] In a *Record of Outcome* dated 14 September 2009 the Acting State Service Commissioner noted:

"At the Conference the applicant expressed his concern regarding the wording of the SOD and why he believed it did not accurately reflect the nature of the duties performed in the role. The respondent identified why, in their view, the duties were considered to be appropriate.

Following discussion, agreement was reached by the parties on an amended SOD (copy attached) and as a result of this agreement the applicant has advised that he no longer wishes to pursue his application in this forum. As a consequence, my file in this matter is now closed."

[8] Mr Reid's Statement of Duties (SOD) reads:

"FOCUS:

Responsible for day to day co-ordination of tasks and supervision, including training of State Service employees, quality assurance and customer service.

DUTIES:

- 1. Oversee and assist staff in the day-to-day processing of police/court files.*
- 2. Deal with complex enquiries from members of the public, officers of the courts, the legal fraternity and DPEM employees.*
- 3. Provide staff training in established administrative processes and procedures.*
- 4. Undertake File Disclosure duties.*
- 5. Evaluate and undertake quality control procedures and report outcomes.*

SCOPE OF WORK:

Responsible for ensuring the application of appropriate policies, standards and practices in a complex operational environment. Assist the supervisor to ensure less qualified or experienced staff receive instruction, guidance and performance feedback.

DIRECTION/SUPERVISION RECEIVED:

The occupant receives direct guidance and supervision from the Supervisor.

KNOWLEDGE AND SKILLS:

Ability to supervise staff and ensure that confidentiality is maintained in an environment subject to work pressure and court imposed deadlines.

Well developed interpersonal, oral and written communication skills, including the ability to liaise with departmental staff, other jurisdictions and external clients, particularly in handling sensitive matters in a diplomatic and professional manner.

A high level of self motivation and initiative together with well developed organisational skills and an ability to set priorities for others and manage variable workloads.

Sound knowledge of, and experience in, office management practices and procedures.

High level keyboard, data entry and word processing skills, including a knowledge of desktop applications.

ENVIRONMENT AND CONDITIONS:

The occupant will work as a member of a team that will consist of Police members and State Service employees. There may be a requirement to perform duties relevant to Band, skills and experience in other work areas.

Duties are performed in accordance with the State Service Principles.

QUALIFICATIONS AND EXPERIENCE:

Knowledge and expertise consistent with qualifications recognised at Certificate 3 and 4 or equivalent level."

[9] Ms Jordan advised that the Department had reviewed all SODs within the organisation resulting in a generic model designed to fit the new classification standards under the Award.

[10] The main issues of contention are discussed below.

Supervisory Role

[11] The uncontested evidence is that the position is responsible for the day-to-day supervision, training and coordination of State Service staff (currently three). Where necessary the position also provides guidance and training for sworn officers in the prosecution section, but does not supervise the work of police officers.

[12] Mr Reid submitted that B3 'Focus' has the following reference:

"May assist a team leader to supervise less experienced staff engaged in performing similar less demanding tasks."

[13] It follows, Mr Reid contends, that as he is a team leader, it is illogical that the position be classified at the same level as a position *assisting* a team leader.

[14] The PSMO review noted:

"On the other hand the statement of duties portrays a fairly independent role where the occupant has prime responsibility for day to day co-ordination of tasks, supervision of staff, training and quality assurance.

These attributes together with the title team leader appear more consistent with Band 4 than Band 3 which is aimed more at demonstrating leadership rather than a supervisory role."

[15] Ms Jordan submitted that the accountability for the running of the office rests with a Sergeant. The Team Leader assists in these processes, but is not directly responsible or accountable.

[16] There are a number of references to supervision of staff in both the B3 and B4 descriptors. They include:

'FOCUS'

B3 refer above.

B4 *"Makes decisions on the proposals and recommendations of lower level employees."*

'INTERPERSONAL SKILLS'

B3 *"Effective instruction, guidance and feedback is provided to less qualified or experienced staff."*

B4 *"Work at this level may involve a supervisory role.Highly regarded communication and interpersonal skills. This involves instructing, guiding and mentoring less experienced staff and making decisions on operational performance and activities."*

'INFLUENCE OF OUTCOMES'

B3 *"Assist a supervisor regarding the development of less qualified or experienced staff"*

B4 *"Instruction, guidance and mentoring have a significant influence on the development of less qualified or experienced employees."*

'RESPONSIBILITY FOR OUTCOMES'

B3 *"Responsible for assisting a supervisor to ensure less qualified or experienced staff receive appropriate instruction, guidance, and performance feedback."*

B4 *"Where supervision is involved, responsible for ensuring advice, recommendations and decisions support specified service delivery and program outcomes."*

[17] It is clear that a supervisory role can be found in both B3 and B4. It seems to me that the major difference is that at B3, the emphasis is on assisting a higher position in the supervisory role, whereas at B4 the position takes responsibility for the supervisory process and outcomes.

[18] Much of the SOD points to an unequivocal supervisor role. I refer in particular to 'Focus' and 'Duties' which are quite unambiguous in stating that the position is responsible for day to day supervision, coordination and training of staff, with no reference to assisting someone else in this role.

[19] Against this the 'Scope of Work' mirrors the wording of B3 *'Responsibility for Outcomes.'*

[20] The PSMO assessment notes:

"The claim that a person: 'may assist a team leader to supervise less experienced staff engaged in performing similar less demanding tasks' does not necessarily mean that a team leader must be classified at a higher level than Band 3. The descriptor could simply be allowing for personal development situations where the team leader exists at a higher level by providing scope for a lower classified employee to assist them to supervise less experienced staff. It also does not necessarily preclude a team leader from being classified at Band 3."

[21] Whilst this observation is arguably correct, it is not in my view an accurate reflection of Mr Reid's role. The Team Leader is clearly in a supervisory role and cannot be fairly described as being in a personal development situation assisting a team leader at a higher level. In saying this, it must be acknowledged that in virtually every role there is a reporting relationship with a position at a higher level.

[22] On balance, I conclude that B4 more accurately embraces the supervisory role of the Team Leader.

Modification v Application of Guidelines etc.

[23] Mr Reid contended that he was responsible for the maintenance and modification of guidelines, systems and processes in a defined policy and regulatory operating environment. This, he submitted, was consistent with the broad descriptors for B4, rather than B1–3, which refers to *"the application of practices, methods and standards according to existing guidelines, systems and processes."*

[24] Mr Reid said that, whilst the Department provides state-wide policy on matters, the application of that policy, the method of administering that policy or the way of doing things varies from department to department, and from sergeant to sergeant. Mr Reid cited as an example the *File Disclosure Manual* which he developed.

[25] Ms Jordan submitted that the work is performed according to established guidelines and centralised systems and processes. The same position exists in both Northern and Southern Police Districts and neither of the incumbents had sought a review of their classification level.

[26] Under *'Scope of Work'* the SOD states:

"Responsible for ensuring the application of appropriate policies, standards and practices in a complex operational environment."

[27] In my view this sits comfortably with both *'Focus'* and *'Context and Framework'* descriptors of B3, which I note make reference to *"interpretation, modification and adjustment of accepted practices etc."*

Influence of Outcomes

[28] Mr Reid submitted that his role in overseeing and assisting staff in the day-to-day administration of court/police files extends to all staff in the prosecution section, including police officers. He instanced the tailored training manual he developed to facilitate the new computerized court file tracking program. Mr Reid asserted that this was consistent with the descriptors of B4.

[29] Ms Jordan said that the court file tracking system is a whole-of-organisation operating system and is centrally administered. She said that tailored training was designed and coordinated centrally with individual work areas developing "*aide memoires or how- to interpret notes*" on this centrally administered system.

[30] The PSMO review observes:

"Whilst Band 4 also identifies 'significant influence' on development of staff it is not a requirement of the statement of duties which only provides that the occupant assist the supervisor to ensure they receive instruction, guidance and performance feedback."

[31] I concur with this conclusion.

Team Leader: Tasmanian Fire Service (TFS)

[32] Mr Reid referred to a TFS SOD for the position of *Team Leader Cambridge*. This position is classified at B4.

[33] Mr Reid submitted that the majority of the primary duties on this SOD were similar to the duties required and performed in his role.

[34] Some care must be exercised in comparing the two SODs in that one is generic in style whereas the TFS SOD is quite detailed and specific.

[35] Having said that, it must be acknowledged that there are similarities between the two documents. One major difference is however the emphasis on recruitment and induction in the TFS SOD which is not a feature of Mr Reid's SOD.

[36] A further difference can be found under '*Direction/Supervision Received.*' Mr Reid's SOD states:

"The occupant receives direct guidance and supervision from the supervisor."

[37] Whereas the TFS SOD reads:

"Direction/Supervision received:

The incumbent receives overall direction in relation to regional administrative priorities and strategies from the Regional Chief South. Within these parameters, direction on achievement of outcomes is provided by the District Officer Learning and Development, however, once tasks are assigned, issues to be considered discussed and outcomes agreed, the incumbent is expected to work independently using judgement and initiative to achieve the outcomes. Guidance, advice and support to assist with the achievement of the outcomes is available from the District Officer. General supervision for these tasks is provided by the District Officer."

[38] In my view this is a significant distinguishing feature.

Primacy of the SOD.

[39] From the material before the Commission it seems possible/likely that Mr Reid is performing his role at a level higher than that required by the SOD.

[40] I note for example that the correspondence from Commander Smith reads in part:

"The Band 3 classification descriptors and Statement of Duties fails to address the level of involvement the position has to not only modify existing workplace processes and procedures, but to also create and implement changes that ultimately affect all staff within the Section, including sworn members.

As a consequence, the Statement of Duties also does not adequately reflect the extent of the training responsibilities, in that it will often fail to recognise the need to provide training to all levels within the organisation, including sworn members in the section to which such instruction is directed."

[41] There seems little doubt that Mr Reid is a valued and well regarded employee and it is to his credit if he brings personal attributes to his role over and above that required by the SOD.

[42] Notwithstanding, in this translation process the SOD is the pivotal document. The process makes it clear that disputes relating to actual duties and responsibilities are to be referred to the State Service Commissioner (SSC). This occurred in the instant case and at least one change was made to Mr Reid's SOD. The amended SOD was recorded by the SSC as an agreed document and the file was closed.

[43] Accordingly, in this process the Commission views the SOD as the primary consideration. Evidence from an individual as to what they actually do is invariably helpful in aligning the SOD against the descriptors. However duties performed which are clearly beyond that required by the SOD are to be disregarded.

[44] I emphasise that these observations relate to disputes under the translation process alone and recognise the quite precise arrangements to be followed if the dispute relates to duties actually required and performed.

Conclusion.

[45] Both the internal Agency review and the subsequent PSMO review concluded that B3 is the appropriate level.

[46] There are elements of the Team Leader role which satisfy the B4 descriptors and I refer in particular to the front-line supervisory and coordination role. The descriptors, however, must be viewed in totality, and on a 'best fit' basis I am satisfied that the Team Leader position is appropriately classified at B3.

I so order.

Tim Abey
DEPUTY PRESIDENT

Appearances:

Mr S Reid representing himself.

Ms H Jordan with Sergeant G Carey representing the Minister administering the State Service Act 2000

Date and place of hearing:

2010

May 26

Ulverstone