

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 2401-0015-11
Dina Webb,)	
Employee)	
)	Date of Issuance: September 22, 2014
v.)	
)	
Metropolitan Police Department)	
Agency)	Joseph E. Lim, Esq.
_____)	Senior Administrative Judge
Robert Shore, Esq., Employee Representative)	
Frank McDougald, Esq., Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On October 25, 2010, Dina Webb (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“the OEA” or “the Office”) contesting the Metropolitan Police Department’s (“Agency” or “MPD”) action of terminating her employment through a Reduction-in-Force (“RIF”). The effective date of the RIF was September 24, 2010. Employee’s position of record at the time her position was abolished was a Cell Block Processing Technician, CS-1802-07, at the Central Cell Block Division. Employee was serving in Career Service status at the time she was terminated.

I was assigned this matter on July 26, 2012. On August 15, 2012, I ordered the parties to submit briefs on the issue of whether Agency conducted the instant RIF in accordance with applicable District laws, statues, and regulations. After postponements requested by the parties, I held a prehearing conference on October 31, 2013, and ordered the parties to brief the issue of the RIF regulations applicable in the appeal. On February 27, 2014, I issued an Order informing the parties that D.C. Code § 1-624.02 and 1-624.04, and not the Abolishment Act, D.C. Code § 1-624.08, is the more applicable statute to govern this RIF. The parties decided to hold settlement negotiations and status reports were made periodically. On August 27, 2014, the parties submitted a joint stipulation of facts and indicated that they were close to an agreement. On September 18, 2014, the parties indicated verbally and in writing that they had settled. The record is now closed.

JURISDICTION

This Office has jurisdiction in this matter pursuant to D.C. Official Code §1-606.03 (2001).

ISSUE

Whether this appeal should be dismissed.

FINDINGS OF FACTS, ANALYSIS, AND CONCLUSIONS OF LAW

Stipulated Facts

1. Employee was an employee of the Metropolitan Police Department (Agency or MPD) from 2000 through her separation through RIF on September 24, 2010.
2. In a Memorandum dated June 16, 2010, approval was requested from the City Administrator by the Chief of Police of the Agency to conduct a RIF in the Patrol Services and School Security Bureau, Cellblock Processing Division of the Agency.
3. On June 21, 2010, approval was granted to conduct the RIF in the lesser competitive area of Patrol Services and School Security Bureau, Cellblock Processing Division. The stated reasons for the RIF were (1) shortage of work and (2) realignment.
4. Pursuant to the June 21, 2010 approval, the Agency was authorized to abolish thirteen (13) Cellblock Processing Technician ("CPT") positions. Each one of the thirteen (13) positions was identified by their unique position number. The job series of the CPT position was 1802 and the grade level of the positions identified for abolishment was DS- 7.
5. Pursuant to District Personnel Manual ("DPM") Rule 2410.4, a competitive level consists, among other things, of all positions in a competitive area or lessor competitive area, which are the same grade and classification series. Thus, with respect to the June 21, 2010, approved RIF, CPT CS-1802-07 comprised a competitive level.
6. There were sixteen (16) positions in the CS-1802-07 competitive level, including Employee's position.
7. A retention register lists all positions in a competitive level and pursuant to the DPM Rule 2412.2, a separate retention register is prepared for each competitive level. The retention register identifies the name of the individual who encumbers the positions listed on the retention register.
8. Employees on a retention register are ranked according to seniority which is established in accordance with their reduction-in-force service computation date ("RIF-SCD"). A RIF-SCD is based upon an employee's creditable service. Creditable service includes all Federal government, District government, and military service otherwise creditable for Civil Service Retirement System purposes under title 5 U.S.C. § 8332 or District government retirement under sections 2602 or 2603 of the CMPA. An employee's reduction-in-force service computation date shall be the date that reflects total creditable service plus additional service credits, if applicable.
9. The most senior person listed on the retention register is ranked first and the least senior person is listed last.
10. A retention register for the positions in the CPT CS-1802-07 competitive level was prepared

in June 2010 and Employee was initially ranked third according to the Agency's retention register with the Agency calculating her RIF-SCD as April 17, 1989. On that retention register, the positions of the employees ranked four through sixteen were abolished and the employees who occupied the abolished positions were separated. Each abolished position on the retention register had been identified for abolishment by position number in the June 21, 2010 RIF approval. The thirteen employees who were scheduled for separation were issued a notice which advised each of them of their separation effective July 30, 2010.

11. Subsequent to the June 2010 retention register, it was determined that an error an been made in establishing the RIF-SCD of Sheila Tyler, one of the thirteen separated employees and who was ranked fourth on the June 2010 retention register. The error was corrected so Ms. Tyler's RIF-SCD was calculated to be August 10, 1988. No changes were made to Employee's RIF-SCD, which was kept at April 17, 1989, so Ms. Tyler's rank was changed to second and Employee ranked was changed from third to fourth, based on the updated Agency retention register.
12. As a consequence, Employee was slated for separation and Ms. Tyler was retained. On August 24, 2010, Employee was issued a notice in which she was advised of her separation from the Agency effective September 24, 2010. Employee timely filed an appeal of her RIF with the Office of Employee Appeals in this matter.
13. After discovery conducted by the parties, it was determined that Employee's SCD should have been 2/20/1990 instead of 4/17/1995. Accordingly, Employee's RIF-SCD should have been 2/20/1984. This error was corrected in Employee's official record.
14. Agency conceded that Employee should not have been separated due to the RIF and agreed to return Employee to Agency's employ at the pay grade level of 8, with appropriate back pay. The parties settled the matter.

Since the parties have settled the matter, Employee's petition for appeal is dismissed.

ORDER

It is hereby ORDERED that the petition in this matter is dismissed with prejudice.

FOR THE OFFICE:

Joseph E. Lim, Esq.
Senior Administrative Judge