IN THE COURT OF APPEALS OF IOWA

No. 8-217 / 07-0366
Filed July 16, 2008

BRENDA SANDERS,
Petitioner-Appellant,

vs.

STATE OF IOWA and IOWA DEPARTMENT OF ADMINSTRATIVE SERVICES,
Respondents-Appellees.

Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge.

Employee appeals from a district court judicial review decision affirming the decision of the classification appeal committee denying her request for reclassification of her position. **AFFIRMED.**

Nathaniel R. Boulton of Hedberg Law Firm, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Carolyn J. Olson, Assistant Attorney General, Ames, for appellees.

Considered by Huitink, P.J., and Zimmer and Miller, JJ.

ZIMMER, J.

Brenda Sanders appeals from a district court judicial review decision affirming the decision of the classification appeal committee denying her request for reclassification of her position with the Iowa Department of Transportation (DOT). We affirm the judgment of the district court.

I. Background Facts and Proceedings

Sanders is employed by the DOT as an Engineering Operations Technician (EOT). She began working for the DOT in 1991, and she became a Maintenance Operation Assistant (MOA) in 1998. As a MOA, she was required to perform "highway maintenance engineering work" and "assist[ ] the area maintenance engineer in accomplishing the work of the area office."

In 1999 the Iowa Department of Personnel (IDOP) retained Fox Lawson & Associates (Fox Lawson) to assist it in reviewing DOT workforce classifications. The study completed by Fox Lawson in late 2000 recommended that MOAs be reclassified as EOTs, a newly created job title. The Fox Lawson study did not recommend any corresponding change in duties or compensation.

While the Fox Lawson study was ongoing, the DOT began reorganizing its general department structure and selected divisional detail. Mark Wandro, the director of DOT, proposed a reorganization plan in March 2000, which he implemented soon thereafter. However, "it took approximately anywhere from six months to eighteen months to possibly even two years in some aspects for the reorganization to completely take effect." After the reorganization, MOAs were no longer supervised by an area maintenance engineer. Instead, they began

performing their work with limited supervision under an assistant district engineer.

Sanders and other MOAs contested the Fox Lawson reclassification, arguing the study did not adequately reflect the scope of their duties after the reorganization. They sought a different classification at a higher pay grade than that recommended by the study. Sanders presented the position of the MOAs at a classification study committee meeting in February 2001. She asserted that following the DOT reorganization, the MOA position "evolved into a stand-alone position that manages numerous programs" and performs the work previously carried out by the area maintenance engineer. After the meeting, the MOAs sent a letter to Wandro and the director of IDOP on March 1, 2001, again requesting that the Fox Lawson classification recommendation be reviewed and reconsidered due to changes in their duties following the reorganization.

On March 30, 2001, Wandro and the director of IDOP sent a letter to all of the MOAs, including Sanders, denying their reclassification request, stating, "We do not believe there were any errors made in the findings as they relate to the MOA classification." The DOT issued a classification description for the new EOT position in June 2001. In May 2002 Sanders's supervisor, the assistant district engineer, asked her to complete a position description questionnaire (PDQ) because he "did not have a real handle on what our jobs were" following the reorganization. Sanders and her supervisor signed a PDQ detailing the work she performed as an EOT on May 24, 2002. That PDQ was also signed by the district engineer and placed in her personnel file.

On September 28, 2005, Sanders completed a new PDQ, requesting a position review and seeking reclassification as an Executive Officer 2. Her position review request was denied by the personnel officer for the Iowa Department of Administrative Services (DAS) on December 14, 2005, because he did not find any "substantive change in duties (i.e. a change that would result in 50% or more of the position's duties being classified in another job class)" after "comparing the most recent . . . (PDQ) dated September 28, 2005, for the [EOT] position with the previous PDQ for that position dated May 24, 2002."

Sanders appealed the department's decision. Following a hearing, the classification appeal committee denied her request for reclassification. The committee determined that her "assigned duties and responsibilities . . . have not substantively changed since the duties were last subject to review in the fall and winter of 2000 and 2001." Sanders then filed a petition for judicial review, which the district court denied.

Sanders appeals. She claims the department "applied an incorrect legal standard regarding the time frame for considering the substantive changes." She also claims the department "committed a legal error in holding that 'more than fifty percent' change in job duties is required to show a 'substantive change.'" Finally, she claims the department's finding that there was not a substantive change in her duties is not supported by substantial evidence.

II. Scope and Standards of Review

The Iowa Administrative Procedure Act, chapter 17A of the 2005 Iowa Code, governs the scope of our review of the department's decision in this case. Iowa Code § 17A.19; *Allen v. State Dep't of Personnel*, 528 N.W.2d 583, 587

(Iowa 1995). Under the Act, we may only interfere with the department's decision if it is erroneous under one of the grounds enumerated in the statute, and a party's substantial rights have been prejudiced. Iowa Code § 17A.19(10); *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006). The district court acts in an appellate capacity to correct errors of law on the part of the agency. *Grundmeyer v. Weyerhaeuser Co.*, 649 N.W.2d 744, 748 (Iowa 2002). In reviewing the district court's decision, we apply the standards of chapter 17A to determine whether our conclusions are the same as those reached by the district court. *Clark v. Vicorp Rests., Inc.*, 696 N.W.2d 596, 603 (Iowa 2005).

"The legislature requires us to 'give appropriate deference to the view of the agency with respect to particular matters that have been vested by a provision of law in the discretion of the agency.'" *Office of Consumer Advocate v. Iowa Utils. Bd.*, 744 N.W.2d 640, 643 (Iowa 2008) (quoting Iowa Code § 17A.19(11)(c)). We believe chapter 8A clearly vests the department's determination of facts within its discretion given that the department is responsible for determining employee position classifications. *See* Iowa Code §§ 8A.402(1)(c), .413(1); *Mycogen Seeds v. Sands*, 686 N.W.2d 457, 465 (Iowa 2004) (finding agency's factual determinations were clearly vested in discretion of agency where it was charged with the responsibility of determining an employee's right to benefits). We are therefore bound by the department's findings of fact if they are supported by substantial evidence in the record. Iowa Code § 17A.19(10)(f); *Allen*, 528 N.W.2d at 587.

We further believe chapter 8A clearly vests the department's application of law to the facts within its discretion. *Mycogen Seeds*, 686 N.W.2d at 465

("[G]iven that factual determinations in workers' compensation cases are 'clearly vested by a provision of law in the discretion of the agency,' it follows that application of the law to those facts is likewise 'vested by a provision of law in the discretion of the agency.'" (citation omitted)). An agency's application of law to the facts can only be reversed if we determine such an application was "irrational, illogical, or wholly unjustifiable." Iowa Code § 17A.19(10)(m).

Finally, we recognize that although we give an agency a reasonable range of discretion in the interpretation and application of its own administrative rules, we are not bound by its determination. *Hollinrake v. Iowa Law Enforcement Acad.*, 452 N.W.2d 598, 601 (Iowa 1990). Thus, "[r]egardless of the standard of review the legislature requires courts to use when reviewing agency action, the interpretation and final construction of a statute, or an agency rule interpreting a statute, is an issue for the courts to decide." *Office of Consumer Advocate*, 744 N.W.2d at 643.

III. Discussion

A. Statutory Framework

Prior to 2003, the IDOP was the central agency responsible for state personnel management under Iowa Code chapter 19A. *Allen*, 528 N.W.2d at 585-86. Chapter 19A was repealed in 2003 and replaced by chapter 8A. 2003 Iowa Acts ch. 145, § 291. Chapter 8A created DAS "for the purpose of managing and coordinating the major resources of state government including the human . . . resources." Iowa Code § 8A.103. DAS is now "the central agency responsible for state human resource management, including . . . position classification." Iowa Code § 8A.402(1)(c). To that end, section 8A.413(1)

authorizes the department to "adopt rules for the administration of this subchapter pursuant to chapter 17A," including rules "[f]or the preparation, maintenance, and revision of a job classification plan." The director of DAS is accordingly empowered, with certain exceptions, to "classify the position of every employee in the executive branch." Iowa Code § 8A.413(1).

Pursuant to the mandate in section 8A.413, the department adopted rules governing its "job classification plan that encompasses each job in the executive branch, . . . so that the same general qualifications may reasonably be required for and the same pay plan may be equitably applied to all jobs in the same job classification." Iowa Admin. Code r. 11-52.1. Rule 11-52.4(1) thus provides that the director of the department "shall decide the classification of all positions in the executive branch . . . based solely on duties permanently assigned and performed." That rule further states that "[p]osition classification decisions shall be based on documented evidence of the performance of a kind and level of work that is permanently assigned and performed over 50 percent of the time." *Id.* r. 11-52.4(2). The director can use "[c]lassification descriptions," "[p]osition classification guidelines," and "[p]osition description questionnaires"[1] in arriving at position classification decisions. *Id.* r. 11-52.2(1), (2); 11-52.3. An individual's classification determines the position's official job title and rate of pay. *Allen*, 528 N.W.2d at 587.

[1] Classification descriptions and position classification guidelines contain information about the duties and responsibilities associated with the job classification. Iowa Admin. Code r. 11-52.2(1), (2). Position description questionnaires are documents "prepared to gain concurrence by both the employee and management as to the description of the employee's assigned duties." *Allen*, 528 N.W.2d at 586.

"The director may initiate specific or general position classification reviews." Iowa Admin. Code r. 11-52.4(3). An employee may also submit a request to the director to review a specific position's classification. *Id.* r. 11-52.4(3). A "position classification review" involves

> studying the kind of level of duties and responsibilities assigned to a position by comparing those duties and responsibilities to classification descriptions, classification guidelines, or other pertinent documents in order to determine the proper job classification to which a position will be assigned.

Id. r. 11-50.1. Notice of a position classification decision becomes final unless the supervisor or employee submits a request for reconsideration to the department within thirty days after the date the decision was issued. *Id.* r. 11-52.4(4).

Following a final position classification review decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based. *Id.* r. 11-52.4(6). A decision to return a request for review for failing to show a substantive change in duties may be appealed to the classification appeal committee. *Id.* r. 11-52.4(6)(c); *see also* Iowa Code § 8A.413(1) ("Appeals of a classification or reclassification decision . . . shall be heard by a committee appointed by the director."). The sole issue before the committee is limited to whether the employee proved a substantive change in duties by a preponderance of the evidence. Iowa Admin. r. 11-52.4(6)(d), (e).

B. Final Position Classification Review Decision

Sanders initially claims the department erred in applying the "substantive change" standard set forth in rule 11-52.4(6) because a "final position

classification review decision" was never issued for her position. She argues that her September 28, 2005 position review request was the first time she requested a position classification review for her position as an EOT. We do not agree.

The IDOP initiated a position classification review of approximately fifteen positions in the DOT in 1999 when it commissioned Fox Lawson to assist it in "reviewing [DOT] workforce classifications." *See id.* r. 11-52.4(3) (stating the director of the department can instigate a position classification review). The study completed by Fox Lawson examined the duties and responsibilities for selected positions in the DOT through employee questionnaires and interviews. Fox Lawson also examined the existing classification descriptions and guidelines for those positions and then made a recommendation to the IDOP as to the proper job classification to which the positions studied should be assigned. *See id.* r. 11-50.1 (defining position classification review).

The employees received notice of Fox Lawson's position classification recommendations in late 2000 or early 2001. *See id.* r. 11-52.4(4)(a) ("Notice of a position classification review decision shall be given by the department to the incumbent and to the appointing authority."). Sanders and the other MOAs requested the department to reconsider the classification recommended by Fox Lawson at a February 2001 meeting and in a follow-up letter dated March 1, 2001. *See id.* r. 11-52.4(4)(b), (c). Wandro and the director of the IDOP denied the MOAs' request for reconsideration on March 30, 2001. *See id.* r. 11-52.4(d) ("The final position classification decision in response to a request for reconsideration shall be issued by the department within 30 calendar days following receipt of the request."). Sanders did not seek review of that decision.

We therefore conclude the committee correctly determined that the March 30, 2001 letter from Wandro and the director of the IDOP was the final position classification review decision for Sanders's position as an EOT. Thus, the committee did not err in applying the substantive change standard under rule 11-52.4(6).[2]

C. Substantive Change

Sanders next claims the department erred in its interpretation of rule 11-52.5(7), which provides that the phrase "substantive change" in rule 11-52.4(6) means

> sufficient credible evidence exists, in the form of the deletion or addition to the duties in the requester's present classification, that would cause a reasonable person to believe that the duties of the requested classification are assigned and carried out on a permanent basis and are performed over 50 percent of the time.

The committee interpreted this rule to require Sanders to establish that more than fifty percent of the duties assigned to her were altered. Sanders argues the rule instead simply necessitates a showing that the "substantively changed

[2] We do not agree with the district court's determination that the May 24, 2002 PDQ completed by Sanders was a final position classification review decision. The record shows that Sanders completed that PDQ at the request of her supervisor so that he could more fully understand her duties and responsibilities as an EOT after the reorganization. It was not part of any position classification review process as defined in rule 11-50.1. Furthermore, the PDQ was not submitted to the department by Sanders's supervisor. *See id.* r. 11-52.3 ("An updated [PDQ] shall be submitted to the department by the appointing authority whenever requested by the director or whenever changes in responsibilities occur that may impact a position's classification."). Therefore, we do not believe the May 24, 2002 PDQ can be considered a final position classification review decision within the meaning of the administrative rules. However, we need not reverse the district court on this ground because we agree with its ultimate conclusion that the committee correctly applied the substantive change standard set forth in rule 11-52.4(6). *See Clark*, 696 N.W.2d at 603 (stating if our conclusions are the same as those of the district court, we affirm).

duties" are "carried out more than 50 percent of [her] work time." We reject this argument.

The legislature's requirement in section 8A.413 that the department "adopt rules for the administration of this subchapter" evidences a clear legislative intent to vest the interpretation of the statute in the discretion of the department. *Office of Consumer Advocate*, 744 N.W.2d at 643 (holding legislature's grant of power to the agency to adopt rules prohibiting an authorized change in telecommunication service evidenced an intent to vest interpretation of corresponding code section with the agency). Thus, we will only reverse the department's decision if it is based upon an irrational, illogical, or wholly unjustifiable interpretation of section 8A.413(1) and its administrative rules implementing that section. *Id.*

We accordingly give an agency a reasonable range of discretion in the interpretation and application of its own administrative rules. *Hollinrake*, 452 N.W.2d at 601. However, we are not bound by its determination because it is ultimately the duty of the court to determine matters of law, including the interpretation of an agency rule interpreting a statute. *Id.* "We will not defer to an agency interpretation that is plainly inconsistent with its rule or plainly erroneous." *Id.*

We do not believe the department's interpretation is plainly inconsistent with rule 11-52.5(7) or plainly erroneous. Rule 11-52.5(7) requires the employee to show through either the deletion or addition of duties to the employee's present classification that the duties of the requested classification are performed over fifty percent of the time. Because the rule requires the employee to show

that the duties of the requested classification are performed over fifty percent of the time, it conversely follows that the employee must show that more than fifty percent of the duties of the employee's present classification have been altered. We accordingly conclude that the department's interpretation of rule 11-52.5(7) was not irrational, illogical, or wholly unjustifiable.

D. Substantial Evidence

Finally, Sanders claims the department's finding that there was not a substantive change in her duties is not supported by substantial evidence. We do not agree.

We are bound by the department's fact findings if they are supported by substantial evidence in the record as a whole. *Allen*, 528 N.W.2d at 587. Substantial evidence is defined as evidence of the quality and quantity "that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance." Iowa Code § 17A.19(f)(1); *Mycogen*, 686 N.W.2d at 464. Thus, evidence is substantial when a reasonable person could accept it as adequate to reach the same finding. *Asmus v. Waterloo Cmty. Sch. Dist.*, 722 N.W.2d 653, 657 (Iowa 2006).

The committee found that while the duties assigned to Sanders "included additional autonomy for their functions following the reorganization of the [DOT] in 2001, that change has not had the effect of influencing the basic premise and thrust of the position duties." The materials Sanders submitted to the classification study committee in 2001, the June 2001 classification description

for EOTs, the PDQs completed by Sanders, and her testimony at the classification appeal committee hearing support that finding. That evidence demonstrates that the primary work performed by an EOT, both after the reorganization and at the time Sanders filed her September 28, 2005 position review request, is administering, preparing, and approving various permits and serving "as the first line contact with the public in dealing with" complaints regarding DOT policies and regulations.

Sanders argues, however, that since the reorganization, her supervision is almost "nonexistent," she no longer works in the same area as an engineer, she has authority to approve or deny permits, and she has been given greater authority to make decisions on behalf of the DOT regarding access issues. All of these changes in duties identified by Sanders concern the amount of supervision exercised by her superiors over the same duties she has performed since the reorganization. As the committee recognized, the additional autonomy afforded to EOTs following the reorganization reflected the "streamlined" "process for review and approval of the necessary permits" under the new organization of the DOT. Thus, although Sanders may bear greater responsibility for the work she performs, her job duties themselves did not undergo a substantive change after the final position classification review decision was issued on March 30, 2001.[3] We therefore conclude, like the district court, the committee's finding "that the assigned duties . . . of . . . Sanders have not substantively changed since the

[3] We additionally note that there is no evidence in the record as to the duties or responsibilities of an Executive Officer 2, which was the classification Sanders requested, or whether the altered duties identified by Sanders fit within that classification.

duties were last subject to review in the fall and winter of 2000 and 2001" is supported by substantial evidence.

E. Conclusion

The department did not err in applying the substantive change standard under administrative rule 11-52.4(6) because the March 30, 2001 letter from the director of the DOT and the director of the IDOP constituted a final position classification review decision. The department's interpretation of rule 11-52.5(7) was not irrational, illogical, or wholly unjustifiable. Finally, we conclude that the department's finding that Sanders did not establish a substantive change in her job duties was supported by substantial evidence. We therefore agree with the district court's ruling affirming the decision of the classification appeal committee denying Sanders's request for reclassification. The judgment of the district court is accordingly affirmed.

AFFIRMED.