



Public Service
Staffing Tribunal

Tribunal de la dotation
de la fonction publique

File: 2011-1199
Issued at: Ottawa, October 17, 2012

DANIELLE WILSON

Complainant

AND

THE DEPUTY MINISTER OF HEALTH CANADA

Respondent

AND

OTHER PARTIES

Matter Complaint of abuse of authority pursuant to section 77(1)(a) of the *Public Service Employment Act*

Decision Complaint is dismissed

Decision rendered by Joanne B. Archibald, Member

Language of Decision English

Indexed *Wilson v. the Deputy Minister of Health Canada*

Neutral Citation 2012 PSST 0027

Reasons for Decision

Introduction

1 Danielle Wilson, the complainant, was a candidate in an internal advertised appointment process for the position of Regional Manager, Environmental Health Services, an EG-08 position (the EG-08 position) with the Department of Health – First Nations and Inuit Health, in Vancouver, British Columbia (BC). It is the complainant's view that the Deputy Minister of Health Canada, the respondent, abused its authority in the application of merit by incorrectly screening her from the appointment process.

2 The respondent denies that an abuse of authority occurred and states that the complainant did not meet the essential qualifications for the position, in particular the requirement for experience developing and implementing program frameworks, strategies and plans. As a result, she was found not qualified and eliminated from further consideration for appointment to the position.

3 The Public Service Commission (PSC) presented a written submission in which it discussed relevant PSC policies and guidelines. It took no position on the merits of the complaint.

4 The appointed person, Linda Pillsworth, also made a submission to address the complainant's allegation that personal favouritism had influenced Ms. Pillsworth's appointment. However, the allegation was withdrawn by the complainant at the time of the hearing. Accordingly, neither the complainant's original allegation nor Ms. Pillsworth's submission were considered in these reasons for decisions.

5 For the reasons that follow, the complaint is dismissed. It has not been established that the complainant was improperly eliminated from the appointment process. The assessment board relied on the information she provided in her application to reach its conclusion, and it has not been shown that it acted unreasonably in reaching its determination.

6 The Tribunal notes that the complainant raised an issue involving the interpretation or application of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6. However, she expressly elected not to pursue it during the hearing of her complaint. As a result, it was not further considered by the Tribunal.

Issue

7 The Tribunal must determine whether the respondent abused its authority in determining that the complainant did not meet the essential qualifications for the EG-08 position.

Analysis

8 The complainant was screened out of the EG-08 appointment process on the basis that she did not meet the essential qualification of experience developing and implementing program frameworks, strategies and plans. It is the complainant's view that she sufficiently addressed this qualification in her application and should have been further assessed.

9 The complainant testified that she understood a framework to be a document that is produced to look critically at a situation, identify issues, and develop recommendations. In her view, a strategy is used to move the recommendations forward into implementation. A plan addresses human and financial resources.

10 The complainant described the manner in which she addressed the experience qualification in her application. She referred to activities that she had undertaken while a student in a Master's of Public Health program of study at the University of Waterloo. Firstly, she considered that she had addressed the requirement for experience with program frameworks in her application when she wrote that she assisted in the development of an injury prevention primer while a Master's student.

11 Secondly, the complainant felt that she addressed the requirement for experience with strategies and plans in her application where she described a practicum at the Department of Health in Kamloops, BC. The practicum was a specialized work assignment to complement her Master's studies. In her application, she indicated that

she “wrote a drinking water policy that supports headquarters’ efforts to pilot water safety plans in Ontario First Nations communities”. The complainant acknowledged this was her only reference to the experience she gained through her practicum.

12 The complainant provided more detail about the practicum during testimony and produced the practicum agreement and interim evaluation. The practicum agreement was executed by the complainant and Ms. Pillsworth, who was acting on behalf of the Department of Health. It indicated that for the period of January 4, 2011, through April 1, 2011, the complainant’s work assignment was to develop a framework and guiding policy for a drinking water committee, and assist in preparing a memorandum of understanding, terms of reference and related agreements among the federal agencies that were involved. The interim evaluation was completed by Ms. Pillsworth on March 4, 2011, as a report to the University of Waterloo on the goals, activities, and progress of the complainant during her practicum. It indicated that she had completed an analysis of policy options and that a new option was generated through her research and understanding of First Nations programs. It also provided that the complainant’s activities would be altered to include development and evaluation of a water safety plan tool and a pilot of it, thereafter to be followed by recommendations for its implementation. Neither document was included in the complainant’s application.

13 Yousuf Ali, the Regional Director of First Nations and Inuit Health for BC, testified that he led the appointment process as the EG-08 position reports to him. Mr. Ali stated that he received 14 applications for the position, and he screened them against the education and experience requirements of the *Statement of Merit Criteria*, based solely on the content of the applications. The *Job Opportunity Advertisement (JOA)* for the EG-08 position advised candidates that they must clearly demonstrate on their applications that they meet the essential education and experience qualifications or risk rejection of their application.

14 Referring to the complainant’s application, Mr. Ali stated that it did not demonstrate the required experience in developing and implementing program frameworks, strategies and plans. In his view, there were some theoretical components in her description of work performed for the provincial interior health authority, but they

were insufficient to meet the experience requirement. Her application generally addressed the work and level of engagement of a Health Resources Officer (EG-06), and not experience of the type sought for the EG-08 position. With respect to a safe drinking water policy, Mr. Ali acknowledged that it was a significant national initiative. However, he was not aware of the complainant's specific involvement, other than the mention of it in her application. In his opinion, the description in her application did not reflect the level or complexity or program experience that he sought.

15 Mr. Ali acknowledged that he was aware of the complainant as one of 250 employees within his directorate, but he had never worked directly with her. He was not aware of the content of the practicum agreement or the interim evaluation, and he had no knowledge of her work experience other than what she presented in her application.

16 The Tribunal finds that the evidence does not establish an abuse of authority in the circumstances of this case. In matters of assessment of a candidate, the Tribunal has held in numerous decisions that its role is to determine whether there has been an abuse of authority, not to reassess candidates or redo the appointment process. See, for example, *Broughton v. Deputy Minister of Public Works and Government Services*, 2007 PSST 0020.

17 The evidence before the Tribunal does not suggest that any part of the application was overlooked or that the respondent relied on insufficient material or failed to consider all of the information before it. See *Tibbs v. Deputy Minister of National Defence*, 2006 PSST 0008 at para. 70; *Brookfield v. Deputy Minister of Foreign Affairs and International Trade*, 2011 PSST 0025 at paras. 45-46. The JOA adequately explained to candidates that they must clearly demonstrate the screening criteria in their applications. Mr. Ali's unchallenged testimony was that he considered the complainant's entire application and did not find a description that satisfied the essential experience qualification in issue. There is no suggestion that he had unanswered questions or uncertainty about the experience described in the complainant's application. The evidence does not establish a reason for Mr. Ali to have contacted the complainant or sought additional information before reaching his decision.

The candidate's application was the chosen assessment tool for the essential qualification in issue. The Tribunal has previously held that it is a candidate's responsibility to ensure that their application is complete and contains all the necessary information to demonstrate that they meet the essential qualifications. See *Charter v. Deputy Minister of National Defence*, 2007 PSST 0048; *Henry v. Deputy Head of Service Canada*, 2008 PSST 0010. After reviewing the complainant's application, Mr. Ali decided that the complainant did not meet the experience requirement, and the complainant has not demonstrated that his decision was unreasonable.

18 Perhaps the practicum agreement or interim evaluation would have augmented the description of the complainant's experience or led to the complainant being screened into the process. However, neither of them was included in the application and, as stated above, the evidence has not shown a reason for Mr. Ali to look beyond it.

Decision

19 For these reasons, the complaint is dismissed.

Joanne B. Archibald
Member

Parties of Record

Tribunal File	2011-1199
Style of Cause	<i>Danielle Wilson and the Deputy Minister of Health Canada</i>
Hearing	August 21, 2012 Kamloops, British Columbia
Date of Reasons	October 17, 2012
APPEARANCES:	
For the complainant	Phil Carriere
For the respondent	Christine Langill
For the Public Service Commission	Kimberley Lewis (written submission)
For the other party	Linda Pillsworth (written submission)