

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE
----- X

In the Matter of

CAROL A. COATS,

Appellant,

DECISION AND ORDER

9 DOS APP. 01

(297 DOS 00)

-against-

**DEPARTMENT OF STATE,
DIVISION OF LICENSING SERVICES,**

Respondent.

----- X

Carol A. Coats [hereinafter “Appellant”] appeals to the Secretary of State from a decision of the Office of Administrative Hearings that denied her application for a private investigator’s license.

Appellant submitted a Memorandum of Appeal objecting to the determination below.

Respondent submitted a Memorandum in Opposition.

ISSUE

This appeal considers whether the Office of Administrative Hearings erred in determining that Appellant lacked sufficient experience in the area of investigations required for a license as a private investigator pursuant to General Business Law § 72.

FINDINGS OF FACT

Appellant is a Safety and Security Officer/Claims Investigator at Women’s Christian Association Hospital in Jamestown, New York. She has been employed in this capacity since June 1986. On August 19, 1999 Appellant applied for a license as a private investigator with the Department of State Division of

Licensing Services. The Respondent denied this application due to the Appellant's failure to establish three years of qualifying investigative experience as required by state law. During the administrative hearing the Appellant maintained that her primary duties at the W.C.A. Hospital are investigations. However, Appellant's supervisor stated that only twenty-five percent of Appellant's total work time is dedicated to investigations. Appellant did not submit any evidence contrary to her supervisor's assertion. In fact, the list of duties provided by the Appellant substantiated her supervisor's claim that most of her work is not related to investigations.

OPINION

The findings of the Administrative Law Judge are accurate and are supported by rational and substantial evidence; moreover, the license denial is more than reasonable in light of the evidence presented. In order for the Respondent to be considered for a license as a private investigator she must establish at least three years of qualifying investigative experience. GBL § 72¹. Furthermore, to qualify, the investigative position held must be of a full time nature and must have as the primary duty that of an investigator as defined in the GBL. 19 NYCRR § 172.1.

¹ Every such applicant for a license as a private investigator shall establish to the satisfaction of the secretary of state . . . [that such applicant] has been regularly employed, for a period of not less than three years, undertaking such investigations as those described as performed by a private investigator in subdivision one of section seventy-one of this article, as a sheriff, police officer, in a city or county police department, or the division of state police, investigator in an agency of the state, county or United States government, or employee of a licensed private investigator, or has had an equivalent position or experience. However, employment as a watchman, guard or private patrolman shall not be considered employment as a "private investigator" for purposes of this section.

GBL § 72 (1).

Appellant is primarily a security guard. Although the Appellant does conduct investigations as a portion of her duties, they are not her primary duties at the W.C.A. Hospital. Moreover, the Appellant does not have one of the statutorily listed occupations that qualify her as an investigator, nor does she have the necessary “equivalent experience” as an investigator that would enable her to otherwise qualify for the license. In fact, she holds a position that the statute specifically states, “. . . shall not be considered employment as a ‘private investigator’ . . .” GBL § 72 (1).

DETERMINATION

Appellant’s job as a security guard involves only limited investigations work and is therefore insufficient to support an application for a private investigator license. GBL § 72. The determination of the Administrative Law Judge is affirmed.

So ordered on:

Randy A. Daniels
Secretary of State