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STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Peter Stevens,
Department of Human Services

CSC Docket No. 2015-18

Layoff Appeal

ISSUED: SEP 18 2014

(RE)

Peter Stevens, a Human Services Technician at Greystone Park Psychiatric Hospital, appeals his demotion in lieu of layoff from a full-time position to a part-time position.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles, including employees of Greystone Park Psychiatric Hospital, due to the closure of the North Jersey Developmental Center, effective June 27, 2014. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that Mr. Stevens was displaced from his full-time Human Services Technician position to a part-time position in the same title.

On appeal, Mr. Stevens argued that he should have been appointed from an eligible list for Human Services Technician prior to the layoff date, but was informed that the list would not be certified. He felt that this was unfair. He stated that he is more senior to four other employees, whom he named, and that he should be able to bump them.

Commission staff responded that examination issues are not a factor in layoff title rights determinations. Mr. Stevens was informed that his name appears on the eligible list for the Human Services Technician title, which was certified twice, but he was not appointed as his name did not appear on either certification. He was informed that could have filed an appeal of that issue within appropriate time

frames, but his standing on an eligible list has no bearing on his title rights. It was also indicated that, after appointment from an eligible list, Mr. Stevens would have had to complete a working test period prior to the layoff date for this to have had an impact on his layoff rights. He was a provisional Human Services Technician, but his permanent title is Human Services Assistant, and title rights are determined using permanent titles.

Mr. Stevens was informed that as he was not permanent as a Human Services Technician on the layoff date, he could not be afforded displacement and seniority rights to that title. Three of the individuals he named are Human Services Technicians, at a higher class code than the Human Services Assistant title, and employees in higher class codes and higher seniority have their rights decided prior to employees in lower class codes and seniority. The person who bumped the fourth individual was demoted from the Human Services Technician title, and was given the opportunity and selected this position. As such, this position was not available to Mr. Stevens when he was offered title rights. Mr. Stevens did not establish any error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights.

The appellant replied that he has seniority over the four individuals as he should have been certified from the eligible list for Human Services Technician at the same time as those individuals. He inquires as to why his name was removed from two certifications, and he would like to know if anyone inquired as to why his name was missing from the list.

CONCLUSION

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. See *Malone v. Fender*, 80 N.J. 129 (1979). In this case, Mr. Stevens is in a lower class code than three individuals who he argues have less seniority than he does. In addition, a fourth individual was displaced by a Human Services Technician with higher seniority before Mr. Stevens was offered his title rights. He has no claim to these positions, and there is no violation of title rights.

In addition, examination issues have no bearing on the determination of State title rights. In this case, the appellant applied for and passed an examination for Human Services Technician (PS9823K). The appellant is mistaken when he states that his name was removed from two certifications, as his name was not on either certification from the eligible list. He had listed on his application that he was interested in employment in Essex County, and the certifications were for Morris County. A change was made on March 20, 2014, to update his employment preference to include Morris County, however the certifications PS121257 and PS131309 were certified prior to March 20, 2014. Employment preferences are selected by the applicants, not by the Civil Service Commission. At some point in time, someone pursued this issue, as it was changed on March 20, 2014. Nonetheless, the appellant's arguments in this regard are untimely and immaterial to a layoff rights appeal.

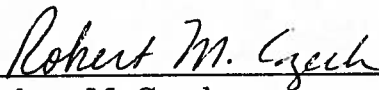
Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17th DAY OF SEPTEMBER, 2014



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