B-17

STATE OF NEW JERSEY

In the Matter of Joan Giordano, Account Clerk (C0798P), Atlantic County

CSC Docket No. 2014-872

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

List Removal Appeal

ISSUED: JUL 2 1 2014 (JET)

Joan Giordano appeals the attached decision of the Division of Classification and Personnel Management (CPM), which upheld the removal of her name from the Account Clerk (C0798P), Atlantic County, eligible list, on the basis of her failure to timely respond to the notice of certification.

The appellant took the open competitive examination for Account Clerk (C0798P), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on January 7, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of her failure to timely respond to the notice of certification.

On appeal to CPM, the appellant asserted, among other things, that her name should be restored to the subject eligible list. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

On appeal, the appellant asserts that she did not respond to the notice of certification because she mistakenly believed that it was an unemployment notice. In addition, the appellant contends that she neglected to respond due to the

excitement she experienced from being hired at a new position.[1] Thus, the appellant requests that her name be restored to the subject eligible list.

In response, the appointing authority maintains that the appellant's name should be removed from the eligible list for failure to respond to the notice of certification.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-4.7(a)11 allows the removal of an eligible's name from an eligible list for other valid reasons. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove the appellant from an eligible list was in error.

In the instant matter, the appointing authority requested the removal of the appellant's name from the January 7, 2013 certification of the Account Clerk (C0798P) list because she failed to respond to the notice of certification. A review of the record reveals that the appointing authority correctly removed the appellant's name from the eligible list for failure to respond to the notice of certification. Further, the explanations provided by the appellant on appeal are not sufficient to explain why she failed to timely respond to the notice of certification. Moreover, the appellant has not provided any substantive documentation to show that the appointing authority's decision to remove her name from the eligible list was incorrect. Accordingly, the appellant has not met her burden of proof in this matter and the appointing authority has shown sufficient justification for removing her name from the Account Clerk (C0798P) eligible list.

ORDER

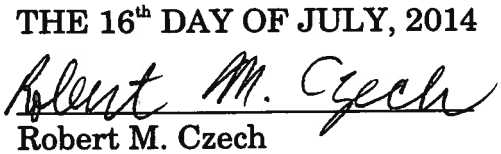
Therefore, it is ordered that this appeal be denied.

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

---

[1] Official personnel records indicate that the appellant was appointed as a Clerk Typist at the Office of the Public Defender on December 15, 2012.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 16th DAY OF JULY, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

c: Joan Giordano
Dennis Levinson
Kenneth Connolly
Dan Hill

Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

September 9, 2013

Joan Giordano 458 Washington Ave Egg Harbor, NJ 08215	**Title**: Account Clerk **Symbol**: C0798P **Jurisdiction**: Atlantic County **Certification Number**: OL130058 **Certification Date**: 01/07/2013

Initial Determination: Removal – Failure to respond as required

This is in response to your correspondence contesting the removal of your name from the referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C.* 4A:4-4.7(a)6, which permits the removal of an eligible candidate's name from the eligible list for "Non-compliance with the instructions listed on the notice of certification."

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's decision to remove your name has been sustained and your appeal is denied.

In accordance with Merit System Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a $20 fee for appeals. Please include the required $20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Appeals Record Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Director,

Elliott Cohen
Human Resource Consultant
Certifications Unit

C. Dennis Levinson

Dennis Levinson, County Executive
Atlantic County
1333 Atlantic Avenue
Atlantic City NJ 08401