

B-16



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Zsolt Kovacs,
Occupational Safety Consultant 2
(S0186T), Statewide

CSC Docket No. 2016-570

Eligibility Appeal

ISSUED: **NOV 23 2015** (LDH)

Zsolt Kovacs appeals the determination of the Division of Agency Services (DAS) that he did not meet the experience requirements for the open-competitive examination for Occupational Safety Consultant 2 (S0186T), Statewide.

The subject open-competitive examination was announced with a closing date of April 2, 2015 and was open to applicants who possessed a Bachelor's degree and two years of experience in the identification, analysis, and/or solution of workplace safety hazards involving the application of Federal Occupational Safety and Health Act (OSHA) regulations and/or nationally recognized safety standards. The subject eligible list, containing 13 names, promulgated on July 16, 2015 and expires on July 15, 2018. Two certifications were issued on July 17, 2015 and a third certification was issued on July 24, 2015. None of the certifications have been disposed of.

On his application, Kovacs indicated, in relevant part, that he possessed a Bachelor's degree and that he served part-time as a Facility Safety Coordinator/Assistant Manager of Loss Prevention with Wakefern/ShopRite from October 2012 to March 2015. Specifically, he noted he was responsible for ensuring that safety programs and inspections met or exceeded OSHA, State and Federal requirements. Based on the foregoing, the DAS found that the required duties were not the primary focus of Kovacs' position, and thus, he was found to be lacking any relevant experience.

On appeal to the Civil Service Commission (Commission), Kovacs argues that he meets or exceeds the minimum experience requirements as evidenced by his updated resume. In this regard, he states in relevant part that, as a Facility Safety Coordinator/Assistant Manager of Loss Prevention, he was responsible for developing and implementing effective safety programs, procedures and policies for management and employees that met or exceeded OSHA standards. He highlights his various training in Federal and State OSHA regulations which included OSHA Safety and Health Specialist Certification in General Industry. He also states that he has been employed provisionally in the subject title since May 2015 with the Department of Labor and Workforce Development (DOL). In support, he also submits, *inter alia*, a letter from Mary Fitzgerald, Director of Human Resources and Labor Relations, DOL, in which she maintains that Kovacs was appointed provisionally, pending open-competitive procedures to the subject title, effective May 4, 2015. Moreover, she indicates that prior to his appointment, Kovacs' resume and application were reviewed by its recruitment unit and by the management of the Division of Labor Standards and Safety Enforcement's Office of Public Employee's Occupational Safety and Health and that he was interviewed, during which he further articulated his qualifications. Based on the foregoing and the reviewers' 50 years combined experience, it was determined that Kovacs met the announced requirements and thus, Kovacs should be admitted to the subject examination.

CONCLUSION

Initially, *N.J.A.C.* 4A:4-2.1(f) provides that an application may only be amended prior to the announced filing date. *N.J.A.C.* 4A:4-2.3 provides that applicants for open-competitive examinations shall meet all of the announced criteria by the closing date. Therefore, the fact that Kovacs has been employed provisionally in the subject title since May 2015 is irrelevant since the closing date of the subject examination was April 2, 2015.

In order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). The amount of time, and the importance of the duty, determines whether it is the primary focus. In addition, an experience requirement that lists a number of duties which define the primary experience requires that the applicants demonstrate that they *primarily* performed all those duties for the required length of time. Performance of only one or some of the duties listed is not indicative of comprehensive experience. A review of Kovacs' description of his duties as a Facility Safety Coordinator/Assistant Manager of Loss Prevention does not indicate that the primary focus of that position was the identification, analysis, and/or solution of workplace safety hazards involving the application of Federal Occupational Safety and Health Act (OSHA) regulations and/or nationally recognized safety standards.

Rather, the primary focus was training employees on standard operating procedures for safety conduct.

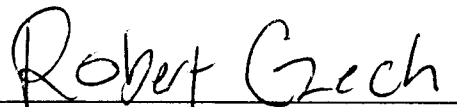
Moreover, although Kovacs did indicate that he performed some relevant duties, he did not indicate the percentage of time that he performed those duties. *See In the Matter of Joseph Menza* (MSB, decided July 23, 1991), *reversed on reconsideration* (MSB, decided April 21, 1992) (Appellant who listed many duties on his application other than those which were required to establish eligibility ordered to submit applications with percentages of time he spent performing each of primary functions to add up to 100% for each position in order to address appointing authority's concerns that he is stretching his qualifications beyond reasonable limits so as to qualify for admittance to all kinds of examinations). Regardless, even if Kovacs was credited with having performed relevant duties 50% of the time as a Facility Safety Coordinator/Assistant Manager of Loss Prevention, this experience would still fall short of the two years of applicable experience as his time would be prorated to 12 months because he was only employed part-time in that title. Accordingly, a review of record indicates that the decision of DAS that Kovacs did not meet the announced requirements for eligibility as of closing date is amply supported by the record and he has failed to present a basis to disturb that decision.

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 18TH DAY OF NOVEMBER, 2015



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