



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of William McClintock,
Fire Officer 3 (PM1698S),
Jersey City

CSC Docket No. 2016-1701

Examination Appeal

ISSUED: DEC 21 2015 (RE)

William McClintock appeals his score on the examination for Fire Officer 3 (PM1698S), Jersey City. It is noted that the appelland passed the examination with a final average of 82.960 and ranks eighth on the resultant eligible list.

The subject promotional examination was held on April 28, 2015 and 13 candidates passed. This was an oral examination designed to generate behaviors similar to those required for success in a job. The examination consisted of four scenario-based oral exercises; each was developed to simulate tasks and assess the knowledge, skills and abilities (KSAs) important to job performance. These exercises covered four topic areas: 1) Incident Command – Non-fire Incident, 2) Supervision, 3) Administration, and 4) Incident Command – Fire Incident.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, fire fighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable in the technical component for some scenarios, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

This examination was given using the chain oral testing process, and candidates were given ten minutes to respond to each question. Candidate responses to each question were rated on a five-point scale (1 to 5) from nil response through optimum according to determinations made by the SMEs. Oral communication for each question was also rated on the five-point scale. This five-point scale includes 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received the following scores for the technical component for each question, in order: 1, 4, 4, and 3. He received the scores of 5, 5, 5, and 5 for the oral communication components.

The appellant challenges his scores for the technical components for each scenario. As a result, the appellant's test material, audiotape, and a listing of PCAs for the scenario were reviewed.

The Incident Command – Non-Fire Incident scenario pertained to a report of a multiple vehicle crash on a major, six-lane, limited-access highway on a winter morning. It is 10:00 AM, and the temperature is 15°F with little to no wind. The area is experiencing snow, sleet, freezing rain, and the formation of black ice on the roads, which was the major cause of the pileup. Upon arrival, the candidate sees 25 crashed vehicles, including several semi-trucks, involved in a pileup on a downhill stretch of highway. Some motorists are out of their vehicles and others are still entrapped. The State Police are on the scene, up the road from the accident site, attempting to slow traffic to prevent more crashes. For the moment, there is no smoke or evidence of fire, but the odor of gasoline is present. The scenario indicates a number of actions that have already been taken by the candidate, and it asks the candidate to answer the question based on the text *Hazardous Materials: Managing the Incident*, and their experience. Question 1 asked for specific actions to take to address the incident, having already completed the nine actions given. Question 2 indicated that the candidate receives a report that gasoline is leaking from the ruptured tank of a van. The driver has been extricated and has said that his 25 gallon tank was almost full. The gasoline is flowing toward two nearby overturned vehicles where extrication operations are underway. This question asks for specific actions that should now be taken based on this new information.

For this incident, the assessor noted that the appellant failed to ensure that trapped victims are extricated and rescued; to search all vehicles or the entire scene for victims, fire and hazards; and to locate the source of the gasoline odor. These were mandatory responses to question 1. They also indicated that he missed the opportunity to establish an EMS branch, which was an additional response to question 1. On appeal, the appellant argues that he stated he would institute site management and control, identify all problems and any spills, and rescue victims. In response to question 2 he stated that he would use rescue and hazmat teams to

de-energize all vehicles. He states that he did not need to locate the source of the gasoline odor for question 1 since that information was supplied in the stimulus material for question 2.

In this scenario, certain responses to the situation presented are mandatory. That is, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response: however, the SMEs cannot provide a score higher than a 3 in those cases. All mandatory responses must be given in order for a performance to be acceptable, whether there is one mandatory response or five of them. It is not assumed that candidates receive a score of 5 which is then lowered for lack of responses. Performances that include mandatory responses get a score of 3, and those without mandatory responses get a score of 1 or 2. Additional responses only increase a score from 3 to 4 or from 3 to 5.

The appellant received a score of 1 for this component which reflects a much less than acceptable response as he did not address three mandatory responses. A review of the appellant's audiotape indicates that he missed these responses. In the instructions listed after the questions, candidates were told that in responding to the questions to be as specific as possible. They were told to not assume or take for granted that general actions would contribute to their score. The monitor read these instructions immediately after reading the questions. None of the actions supplied by the appellant on appeal match the mandatory responses listed by the assessor. Rather, he is arguing that his responses implied that he searched all vehicles or the entire scene for victims, fire and hazards.

The appellant's responses were general in nature and not specific to the scene. For example, the appellant stated, "I would then start the site management and control, I.D.ing the problem, any spills, rescues, ah victims, ah, that I possibly have. Ah, I would also conduct a hazard and risk evaluation on the scene." This is a very limited response. The appellant is stating that he is identifying problems, spills, rescues and victims, and conducting a hazard and risk evaluation. These actions are intellectual in nature. Once victims are identified, the appellant should have ensured that trapped victims are extricated and rescued. Conducting a hazard and risk evaluation on the scene is not the same as searching the entire scene or all the vehicles for victims, fire and hazards. If the candidate does not express the actions that he or she would take on scene, it cannot be assumed that he or she would know to take such actions. That is why credit is given only for actions which are articulated by a candidate during a presentation. Credit cannot be given for information that is implied or assumed. Additionally, the appellant received credit in question 2 for eliminating ignition sources by de-energizing the cars. The appellant did not state that he was searching all vehicles for victims, fire and other hazards. As a result, the assessor asked the appellant to be more specific regarding site management. The appellant responded that in site management, he would

secure the scene, restrict entry, control it, liaison with the Police Department, determine the products, and determine the types of rescues. He did not take the actions noted by the assessor.

Also, candidates were not told to answer the questions together, and they were given two separate questions on purpose. In this scenario, it states that the odor of gasoline is present, and question 1 asks for specific actions to take. The appellant is arguing that he did not have to search for the source of the odor since, at some point later in time, he will receive a report that gasoline is leaking from the ruptured tank of a van. A Fire Officer 3 would be remiss in waiting for a report of a hazard when an odor of gasoline is present in the area. A competent Fire Officer 3 would try to locate the source of gasoline odor on scene of a 25-vehicle accident in bad weather with many possible victims present. The appellant missed this mandatory response, as well as the other two listed by the assessor, and the additional response. His score of 1 is appropriate for his responses to this scenario.

The Supervision scenario indicated that the candidate was in charge of a tour and the Department recently implemented new standard operating guidelines (SOGs) on radio procedures. Most tours have adopted the new procedures, but the candidate notices that one of his Battalion Fire Chiefs (BFC) is not following the new SOGs. This BFC has told his personnel they are not to communicate over the radio unless there is a dire emergency. This is contrary to the SOGs. He has also publicly stated that the new procedures are inefficient and the old ways were better. He is causing confusion when responding to emergency scenes. After an oral reprimand and being ordered to comply, he has still not adhered to the new radio procedures. The scenario asked candidates to answer the question based on the text *The Fire Chief's Handbook* and their experience. The question asked for specific actions to take concerning the BFC's non-compliance with the new radio SOGs.

The assessors indicated that the appellant missed the opportunity to temporarily reassign the BFC. On appeal, the appellant states that this is not necessary in progressive discipline. He provides a list of all the actions he took, which he states would be accomplished in one day, and states there is no need to temporarily reassign the BFC.

In reply, as noted above, the responses for this examination were developed by the SMEs, and they indicated that temporarily reassigning the BFC is an action that should be taken. The BFC has failed to follow the SOGs after an oral reprimand and being ordered to comply. Thus, if he goes to a scene and does it again, he will be putting lives at risk. He has to be reassigned until he is retrained and commits to following the SOGs completely. If he is not reassigned, and fails to follow the SOGs, the consequences fall to the candidate, who failed to ensure that the BFC would follow all SOGs. The appellant's arguments are unpersuasive, and

this action will remain in the scoring. The appellant missed this action, and his score will not be changed.

In the Administration scenario, the Fire Chief has informed the candidate at a meeting that he has been notified by the law department that they would like the existing local mutual aid contracts to be reviewed and updated. These contracts outline mutual aid with surrounding communities for multiple alarm fires and other emergencies. The chief has placed the candidate in charge of a committee to update and implement the new local mutual aid contracts for the surrounding communities. The scenario asked candidates to answer the question based on the text *The Fire Chief's Handbook* and their experience. Question 1 asked for steps to take to update the outdated mutual aid contract. Question 2 asked for topics that should be covered in the mutual aid contract review.

The assessor indicated that, for question 2, the appellant missed the opportunity to define circumstances under which a request for mutual aid can be refused. On appeal, the appellant indicates that he stated, "If you can give what is needed! If you can't, what are the alternatives?"

In reply, a review of the appellant's presentation indicated that he stated, "If you go to the fire, if companies go to the fire, the BC should go with the companies for supervisory and safety. You know, can, you know, what also should be discussed is, you know, can you give what is needed? Some towns might ride with lesser manpower, those issues need to be addressed, than other towns. If they can't, what are the alternatives?" In this response, the appellant does not state that a topic that should be covered in the mutual aid contract review is the circumstances under which a request can be refused. Rather, he is discussing differing departmental needs. The appellant missed the action noted by the assessor, and his score of 4 for this component is correct.

The Incident Command – Fire Incident scenario pertained to a call for a fire at a two-story taxpayer of ordinary construction. It is 7:00 AM, 17° F, and there is little to no wind. The first floor of the fire building contains various stores such as a liquor store, nail salon, barbershop, and mini mart. The second floor has four occupied apartments with a common cockloft. A battalion chief, two engine companies and the ladder company have been operating on scene for 10 minutes. On arrival, the candidate observes heavy fire from the first floor across all the stores, and hears a radio transmission from Engine One stating that they have hooked up to a frozen fire hydrant. The attack can go no further because they have exhausted their on-board water supply from the engine. The scenario asks the candidates to answer the questions based on the text *Fire Officer's Handbook of Tactics* and their experience. Question 1 asked for specific actions to take to address the incident. Question 2 indicated that the candidate receives a radio report from a truck company that fire has entered the common cockloft and is also

spreading to both exposure buildings. The question asked for specific actions that should now be taken based on this new information.

For this incident, the assessor noted that the appellant failed to vertically vent exposures B and D. This was a mandatory response to question 2. They also indicated that he missed the opportunity to assign an exposure supervisor to exposures B and D, which was an additional response to question 2. They used the "flex" rule to assign a score of 3. On appeal, the appellant argues that he stated that he would have truck companies ladder and vent the buildings, including opening the bulkhead and all natural openings first; he ordered a ladder company to exposure D; he ordered assistance with ventilation on the roofs; and he ordered truck companies to cut holes in the roof with a possible trench cut on the B side.

In reply, the appellant fully addressed his actions for question 1, including vertically ventilating the fire building. Question 2 indicated that fire has entered the common cockloft and is also spreading to both exposure buildings. When the appellant stated that he would have truck companies ladder and vent the building, he was responding to question 1, giving his actions to address the incident. He gave them orders on how to ventilate the roof, and told them of the risk of collapse of parapet walls. He stated that all engine company work and all ladder company work would be coordinated, but he did not phrase it as he did in his appeal, that there would be assistance with ventilation on the roofs. He then stated he would have a ladder company put a ground ladder on exposure D, and then put an additional ladder to the roof of the fire building, since the D exposure does not have any fire in it at the present time and it looks safer. He then stated, "Make an assist with any ventilation needs upon the roof." This is an incomplete sentence, and the inference is that the ladder company who just put up the ladders will then go to the fire building roof to assist with vertical ventilation. But as stated before, credit cannot be given for information that is implied or assumed. Even so, the inference is that the ladder company will assist on the fire building's ventilation, and not on vertically ventilating exposure D, which the appellant has not yet mentioned. The appellant had the engine companies stretch hand lines in the exposures, and then stated, "Have the truck companies cut ah, cut holes in the roof, possible trench cut on the B side." This response does not specifically identify a building; however, the reference to "the B side" is a reference to the fire building. The appellant read question 2 and started defensive operations. He established a collapse zone and took other defensive actions rather than vertically ventilating the exposures. After the 2-minute mark, the assessor asked the appellant to be more specific regarding vertical ventilation. The appellant responded that he would open up all natural openings, and he listed them, and indicated he would start with a 4x4 hole and expand it to 4x8. The appellant missed the mandatory response noted by the assessor, as well as the additional response, and his score of 3 is correct.

CONCLUSION

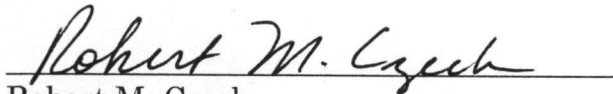
A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

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
THE 16th DAY OF DECEMBER, 2015



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