In the Matter of Luke Schade, Fire :
Fighter (M2542M), Jersey City :

              3243

CSC Docket No. 2015-~~3643~~

STATE OF NEW JERSEY

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

List Removal Appeal

ISSUED   **DEC 1 7 2015**   (BS)

Luke Schade appeals his rejection as a Fire Fighter candidate by Jersey City and its request to remove his name from the eligible list for Fire Fighter (M2542M) on the basis of a "medical negative" drug test.

By way of background, the appellant, a non-veteran, appeared on the Fire Fighter (M2542M), Jersey City, eligible list, and his name was certified to the appointing authority on September 30, 2014. In disposing of the certification, the appointing authority requested the removal of his name due to a "medical negative" drug test. In support of its request for removal, the appointing authority submitted a laboratory report from Medtox in Saint Paul, Minnesota, dated November 6, 2014, indicating that a sample of the appellant's hair was collected on October 29, 2014 and proved "medical negative" for Oxycodone.

In support of his appeal, the appellant states that the medication he had taken was prescribed by a physician and he had stopped taking it well in advance of the drug screening. Additionally, the appellant points out that the medication was detected in a hair sample, not the urine sample. The appellant argues that he had stopped taking the medication weeks before the test, that the medication has no lingering effects, and that all of this information was provided prior to the test.

The appointing authority argues that oxycodone is a sedative and that the medical condition which required the use of oxycodone would require restrictions on the appellant's ability to perform the duties of the subject position.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with N.J.A.C. 4A:4-6.1(a)3, states that an eligible who is physically unfit to effectively perform the duties of the position may be removed from the eligible list. N.J.A.C. 4A:4-4.7(a)1, in conjunction with N.J.A.C. 4A:4-6.1(a)9, also states that an eligible may be removed from an eligible list for other sufficient reasons as determined by the Civil Service Commission.
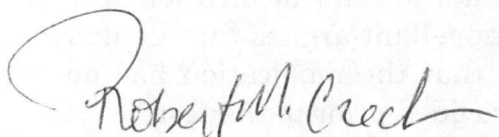
Appellant does not dispute that he tested "medical negative" for oxycodone but asserts that it was prescribed by a physician and he fully disclosed all pertinent information pertaining to his oxycodone use prior to submitting to the drug screening. The appellant further argued that he had stopped taking the medication "weeks" before the drug test and that the medication had no lingering effects. In this case, the Commission finds the appellant's arguments persuasive to dispute the appointing authority's arguments concerning the "medical negative" drug test. The appointing authority has failed to present any evidence to support its claims that the appellant's medical condition would require continued oxycodone use or would restrict the appellant's ability to perform the duties of the position. While it is not clear from the record that the appellant is no longer required to take the medication, if the appointing authority's concern is that the appellant is not medically fit to perform the duties of a Fire Fighter, it may evaluate the appellant's actual medical fitness in the context of a medical examination after the conditional offer of employment is made.

ORDER

Therefore, it is ordered that this appeal be granted and the name of Luke Schade be restored to the eligible list for Fire Fighter (M2542M) Jersey City.

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 16TH DAY OF DECEMBER, 2015

Robert M. Czech
Chairperson
Civil Service Commission

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