

B-68



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Alisyn Sexton,
Sheriff's Officer Sergeant (PC1000N),
Burlington County

List Removal Appeal

CSC Docket Nos. 2015-1939

ISSUED: MAY 11 2015 (SLK)

Burlington County appeals the attached determination of the Division of Classification and Personnel Management¹ (CPM) which restored Alisyn Sexton's name to the promotion list for Sheriff's Officer Sergeant (PC1000N), Burlington County.

By way of background, the subject eligible list promulgated on September 20, 2012 and expires on September 19, 2015. Ms. Sexton's name was listed in the third position on certification PL121524 that was issued December 10, 2012 and the eligible in the first position was appointed. A subsequent certification, PL140055, was issued on January 23, 2014 with Ms. Sexton's name listed in the second position. On February 21, 2014, Ms. Sexton e-mailed the appointing authority stating that she never received the Notice of Certification (Notice) and requested that it permit her to remain on the list. In response, the appointing authority stated that CPM sent the Notice to a Moorestown address and that it was her responsibility to make sure that her address was current. In disposing of certification PL140055, the appointing authority requested the removal of Ms. Sexton's name from the list, contending that she did not timely respond to the certification. Ms. Sexton appealed the removal of her name to CPM, which restored her name to the list for future certifications only.

On appeal, the appointing authority states that CPM sent the Notice to a Moorestown address. However, the appellant was living in Mount Laurel and had

¹ Now known as the Division of Agency Services.

not provided this agency with her change of address as required under *N.J.A.C. 4A:4-3.2(e)*. It notes that Ms. Sexton had been living in Mount Laurel since 2012 as demonstrated by the change of address submission she filed with the appointing authority. The appointing authority presents that the appellant needed to respond to the Notice by February 5, 2014. It maintains that the appellant was on sick leave on January 30, 31, and February 3, 2014, and therefore, she was in working status for two days during the time period she needed to respond to the certification. The appointing authority asserts that it could not grant Ms. Sexton's request to allow her to remain on the list as it had similarly removed other candidates for not timely responding to other certifications to make an exception would be unfair to those previously removed for the same reason. In support, it attaches two prior returned dispositions for other certifications as evidence that it has removed candidates for not responding to certification notices in a timely fashion.

In response, Ms. Sexton, represented by Daniel Rosenberg, Esq., submits her appeal letter to CPM, evidence to indicate that she was on bereavement leave during the time period to respond to the Notice, and a copy of an e-mail from the post office which shows that it stopped forwarding mail sent to her Moorestown address to her in 2013. She reiterates that as soon as she was made aware that she had not received the Notice, she called CPM and changed her address. Additionally, since the issue only involved a change of address, she requested that the appointing authority permit her name to remain on list, but it refused. Ms. Sexton provides that she had updated her change of address with the appointing authority when she moved in 2012 which was well before the current Notice was issued. Ms. Sexton maintains that, in regard to a prior certification, the appointing authority called a candidate who was on vacation of the need to respond timely; however, she did not receive such a courtesy phone call. Ms. Sexton argues that her response to the first certification for the subject examination in 2012, where she indicated that she was interested in the position for the subject title, indicates her current interest in the position.

In reply, the appointing authority agrees that Ms. Sexton notified it that she changed her address in 2012; however, it asserts that this does not negate her duty to also change her address with this agency. The appointing authority acknowledges that it has called candidates who were on vacation to let them know that they needed to respond to notices of certification in a timely manner, but states that those situations were different as those eligibles maintained current addresses with this agency but were away during the time period when they needed to respond. It restates that Ms. Sexton's belief that her prior interest in the position for the subject title in 2012 does not establish that she responded to the certification issued in 2014.

In further response, Ms. Sexton submits a statement from a retired Sheriff's Sergeant from the Burlington County Sheriff's Department which indicates that she was on vacation when a notice of certification was issued and she received a phone call from the appointing authority indicating that it had been trying to reach her for two weeks. She was then asked if she would like to interview for the position, and when she confirmed her interest, she was given an interview date when she returned from vacation.

CONCLUSION

N.J.A.C. 4A:4-3.2(e) provides that it shall be the responsibility of an eligible to keep a current address on file with the Civil Service Commission (Commission). *N.J.A.C. 4A:4-4.7(a)6* provides that an eligible may be removed from an eligible list for non-compliance with the instructions listed on the notice of certification.

In the instant matter, Ms. Sexton acknowledged that she did not respond to the certification within the required time frame because it was sent to her previous address. Additionally, as soon as she learned about the certification, she contacted this agency to change her address and contacted the appointing authority to express her interest in the position. Regardless, notwithstanding the fact that she updated her address with the appointing authority, it is an eligible's responsibility to keep his/her addresses current with this agency. Accordingly, it was not improper for the appointing authority to request to remove her name from the list for non-compliance with the instructions listed on the Notice. However, given that Ms. Sexton subsequently corrected her address with this agency and expressed her desire to remain on the list, as the list had not yet expired, it was proper for CPM to grant her the equitable remedy of restoring her name to the list for future certifications only. In other words, while it would be inappropriate to consider Sexton from the PL140055 certification, the facts in this case do not warrant her overall removal from the eligible list. Moreover, if there is a future certification issued from the subject eligible list, the appointing authority still has the option to either bypass her name or request that Sexton's name be removed if it has other sufficient grounds under *N.J.A.C. 4A:4-4.7* or *N.J.A.C. 4A:4-6.1*.

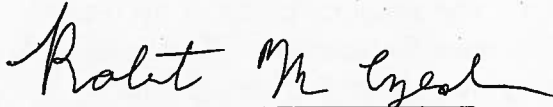
One additional matter warrants comment. The fact that an individual expressed interest in a position on a prior certification does not establish continuing interest in all future certifications issued from an eligible list. In this regard, each certification must be viewed separately, as an eligible's situation and preferences may change over the life of the list. Therefore, interest in each certification is unique to that certification and interest in a position from a prior certification cannot be construed to establish intent to express interest in future certifications.

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 DAY OF, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Alisyn Sexton
Daniel Rosenberg, Esq.
Jean Stanfield
Kenneth Connolly
Joseph Gambino



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 16, 2014

Ms. Alisyn Sexton

Title: SHRFS OFCR SGT
Symbol: PC1000N
Jurisdiction: Burlington Co
Certification Number: PL140055
Certification Date: 1/23/2014

Initial Determination: Removal – Late response to Notification of Certification

This is in response to your correspondence contesting the disposition of your name on the subject certifications.

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 Notification of Certification.

After a thorough review of our records and all the relevant material submitted, we find that there is a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's decision to remove your name has been overturned and your appeal is granted. Your name will be restored to PC1000N for future certifications. The eligible list expires on September 19, 2015. Our records have been updated to reflect your new address. It is your responsibility to keep your address current with the Civil Service Commission. Failure to do so in the future may result in removal of your name from the eligible list.

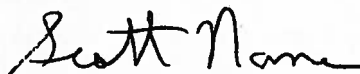
In accordance with Merit System Rules, the Appointing Authority may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your 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 (C.44:10-55 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:

Ms. Alisyn Sexton
September 16, 2014
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Henry Maurer, Director
Merit System Practices and Labor Relations
Written Appeals Record Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Director,

A handwritten signature in cursive script that reads "Scott Nance".

Scott Nance, Supervisor
Certification Unit

c: Jean E. Stanfield, Sheriff