



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Mark Orcutt, Heavy
Equipment Operator (PM0053U),
Linden

Examination Appeal

CSC Docket No. 2016-4078

ISSUED: **NOV 16 2016** (SLK)

Mark Orcutt appeals the determination of the Division of Agency Services (Agency Services) that he was below the minimum requirements in experience for the promotional examination for Heavy Equipment Operator (PM0053U), Linden.

The examination at issue was announced with specific requirements that had to be met as of the January 21, 2016 closing date (see attached). A total of five employees applied for the examination and two were deemed eligible. Certification PL160630 was issued containing the two names on the eligible list and they were both appointed.

On Mr. Orcutt's application, he indicated that he was provisionally serving in the subject title from July 2001 to the January 21, 2016 closing date. Personnel records indicate that he was provisionally serving in the subject title from July 2014 to the January 21, 2016 closing date, a Sewer Repairer 1 from October 2011 to July 2014, a Sewer Maintenance Worker from January 2007 to October 2011, and a Laborer 1 from July 2001 to January 2007. Agency Services initially determined that he lacked one year of permanent service in a competitive title as of the closing date. After re-reviewing his application, Agency Services credited him with having one year of permanent service in a competitive title and one year and seven months of experience based on his provisional service in the subject title, but determined that he lacked five months of the required experience.

On appeal, Mr. Orcutt highlights that the appointing authority provisionally appointed him to the subject title in July 2014 and asserts that he has successfully operated every piece of equipment that the appointing authority's Department of Public Works has.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. Further, *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

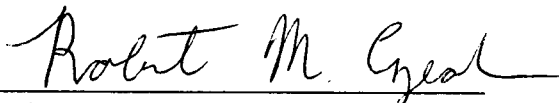
Based on his application, Agency Services correctly determined that Mr. Orcutt did not meet the required experience as of the January 21, 2016 closing date as he only had one year and seven months of applicable experience while serving provisionally in the subject title. Any experience gained as a Sewer Repairer 1, Sewer Maintenance Worker, or Laborer 1 would be out-of-title work. However, the appellant gained the additional experience while serving provisionally in the subject title to satisfy the experience requirement after the closing date. Moreover, the record evidences that the list is incomplete as no names remain on the eligible list. Further, he continues to serve provisionally in the title under test. Therefore, under these circumstances, good cause exists to relax the provisions of *N.J.A.C.* 4A:4-2.6(a) and accept Mr. Orcutt's experience after the closing date, for eligibility purposes only, and admit him to the subject examination.

ORDER

Therefore, it is ordered that the appeal be granted, and Mark Orcutt's application be processed for prospective employment opportunities only.

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 10th DAY OF NOVEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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: Mark Orcutt
Alexis Zack
Kelly Glenn
Records Center

NEW JERSEY CIVIL SERVICE COMMISSION
COUNTY AND MUNICIPAL GOVERNMENT SERVICES
PROMOTIONAL ANNOUNCEMENT



Click here to file Online Print
\$25.00 PROCESSING FEE REQUIRED
Make Check/Money Order Payable to NJCSC

SYMBOL: PM0053U	WEIGHT CODE: *
TITLE: HEAVY EQUIPMENT OPERATOR	SALARY: \$ 19.00- \$ 38.50 / Per Hour
ISSUE DATE: January 01, 2016	CLOSING DATE: January 21, 2016
TITLE CODE: 02001@/ A4RVR2	JURISDICTION CODE: N20090038
JURISDICTION: LINDEN	
DEPARTMENT: PUBLIC PROPERTY COMMUNITY SERVICES	

Visit www.state.nj.us/csc
And select "Job Announcements"
to view this announcement and to file an application

Open to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date and are currently serving in the following title(s):

Equipment Operator 01746

Or to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and meet the requirements listed below:

Experience: Two (2) years of experience in the operation and maintenance of construction and maintenance equipment.

Note: Appropriate formal training in the operation and maintenance of construction equipment may be substituted for one (1) year of the required work experience. You must indicate the details of the training program on your application. Failure to do so will result in rejection from the examination process.

License: Appointees will be required to possess a driver's license valid in New Jersey only if the operation of a vehicle, rather than employee mobility, is necessary to perform the essential duties of the position.

Appointees must possess a valid Commercial Driver's License (CDL), Class B, for the type of vehicle being operated.

Note: The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicle being operated, rests with the Appointing Authority.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. **ONLY ON-LINE APPLICATIONS WILL BE ACCEPTED. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL.** Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title **SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.**
5. In accordance with Public Law 2010 c.26, **Veterans pay a reduced application fee of \$15.00** if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. **PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES.** (i.e. Police, Fire, Corrections and Sheriff).
6. **If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings. Please Email: OAS.support@csc.state.nj.us or call (609) 292-4144. Please note that application support requests received outside of regular business hours on the closing date will not change the application filing deadline, so PLEASE FILE EARLY.**

DPF-256A * Revised 03/09