



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of
John Sher, Fire Lieutenant
(PM1174S), Margate

Examination Appeal

CSC Docket No. 2016-2577

ISSUED: NOV 16 2016

(RE)

John Sher appeals his score for the oral portion of the promotional examination for Fire Lieutenant (PM1174S), Margate. It is noted that the appellant passed the subject examination with a final score of 89.270 and his name appears as the third ranked eligible on the subject list.

It is noted for the record that this two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% was the oral communication score for the arriving exercise.

The oral portion of the Fire Lieutenant examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (arriving). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five minute preparation period was given and candidates had 10 minutes to respond.

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, firefighting 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, 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. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. If the SME scores differed by 1 point, the score was averaged. If they differed by more than 1 point, the SMEs were required to confer with each other until they agreed on a score. Scores were then converted to standardized scores.

Candidates were rated on a five-point scale, with 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. For each of the scenes, and for oral communication, the requirements for each score were defined.

For the evolving scenario, the appellant scored a 3 for the technical component, a 5 for the supervision component, and a 4 for the oral communication component. For the arriving scenario, the appellant scored a 5 for the technical component, a 4.5 for the supervision component, and a 5 for the oral communication component. The appellant challenges his score for the technical component of the evolving scenario, and the supervision component of the arriving scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The evolving scenario involved a fire in a pet store in the middle of a four-store strip mall of lightweight, steel-joist construction built in the 1980s. It is 7:30 AM on a Tuesday in February and the temperature is 33° Fahrenheit with clear skies and a wind blowing from east to west at 8 miles per hour. Upon arrival, it is noticed that smoke is coming from the side A windows of the pet store. The candidate is the commanding officer of the first arriving ladder company and he establishes command. There were two technical questions. Question 1 asked for specific

actions to be taken upon arrival. Question 2 indicates that, during the incident the candidate notices smoke inside of the furniture store on side B. The question asked what actions should now be taken, based on this new information. The supervision question indicates that during the overhaul, the candidate observes his crew laughing and using inappropriate language while overhauling the pet store. The pet store owner is now on the scene and observes this and complains to the candidate. This question asks what should be done at the scene and after returning to the firehouse. Instructions indicate that, in responding to the questions, the candidate should be as specific as possible in describing actions, and should not assume or take for granted that general actions will contribute to a score.

In regard to the technical component, the assessors noted that the appellant failed to perform a primary search of the pet store, which was a mandatory response, and he missed the opportunity to perform forcible entry into the furniture store, in question 2. They used the flex rule to assign a score of 3. On appeal, the appellant states that he mentioned companies using tools for pushing, pulling, prying and searching; he ordered engine 2 to do a primary search and ventilate off their hose line; at the end of his presentation, he stated that the engine companies will perform a primary search of the pet store; and he indicated that engine companies would gain building access in the rear.

Regarding the flex rule, 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. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. 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.

A review of the appellant's video and related examination materials indicates that he ordered his crew to use tools for cutting, pushing, pulling, prying and searching. He also ordered engine 2 to "secure a secondary water supply. Backup engine company number one with a 2 ½ inch line. If not needed, proceed to halt fire extension. Search and ventilate offline. Remove any animals that are possible from the location to protect them from fire." Candidates are informed that credit cannot be given for information that is implied or assumed, as indicated in the instructions to candidates. In these responses, the appellant did not say that he would perform a primary search. Searching and ventilating offline is standard procedure that is

not the same as a primary search. The key duty that was given to engine 2 was to be a backup to engine 1, or to extinguish the fire, but their chief concern was not a primary search. Instead, they were searching while advancing a hoseline to extinguish fire. That is, they searched where they were, but not necessarily the entire fire building. At the two-minute warning mark, the appellant began answering question 3, the supervision question. He finished his response to that question and time was up. The monitor stated that this concluded his response to the evolving scenario. During his presentation, the appellant did not state that he would perform a primary search of the pet store.

At the end of his performance for the *arriving* scenario, the appellant stated, "I don't know if this is allowed but in the first scenario, question number one, I would ensure ah, force entry to the build..., the pet store, do a primary search of the pet store, rescue and remove any victims and animals. Do overhaul at the pet store, extinguishing all fire, pulling ceilings and walls. Conduct salvage operations." The candidates were instructed to answer the questions in the allotted time frame, and any response to the evolving scenario given during that time period for the arriving scenario cannot be considered. To do so would be allowing a candidate to increase the amount of time to answer questions for a given scenario. All candidates had the same amount of time to answer the questions for a scenario, and answers given after the conclusion of the performance time expired cannot be considered in scoring, as this is not a level playing field. Other candidates were not given additional minutes to respond, and the appellant will not be provided with this special accommodation.

Regarding the additional action, the assessors noted that the appellant did not perform forcible entry into the furniture store. The appellant stated, "One company, one ladder and one truck, one other engine company, will go to the rear, give a rear report to the incident commander, gain building access, and protect exposures. Supply any fire department connections, remove any animals, assist with animal removal." Checking/performing forcible entry into the furniture store on side A was the expected response. The appellant went to the rear, "gained access," and assisted with removing animals. As such, the appellant was not specific that he was forcing entry, and it did not appear as though he was referring to the furniture store rather than, or in addition to, the pet store. The appellant missed the mandatory action, as well as the additional action, noted by the assessor, and his score for this component is correct.

The arriving scenario involves a report of fire coming from a two-story, wood-frame house built in the 1970's. It is 1:00 PM on a Saturday in June, 92°F, with sunny skies and a wind blowing from the east to the west at 5 mph. The candidate is the officer of the first arriving engine company and the first officer on scene. Upon arrival, the candidate notices smoke coming from the first and second floor

windows on side A. Dispatch reports that the caller is an occupant in a second floor bedroom and the caller said she was taking a nap, and when she woke up her bedroom was filled with smoke. The technical question asked for specific actions to take upon arrival. The supervision question indicated that the candidate notices a rookie firefighter on his crew having trouble raising a ladder. The question asked for actions to take at the scene and after returning to the firehouse. Instructions indicate that, in responding to the questions, the candidate should be as specific as possible in describing actions, and should not assume or take for granted that general actions will contribute to a score.

In regard to the supervision component of the arriving scenario, the assessors noted that the appellant missed the opportunity to review the SOPs and SOGs on raising ladders. On appeal, the appellant states that he instructed the firefighter on proper operating procedures, and stated he would instruct him on proper procedures during training.

A review of the appellant's video and related examination materials indicates that the appellant received credit for providing any necessary firefighter training. Nevertheless, credit cannot be given for information that is implied or assumed, and this was indicated in the instructions to candidates. The appellant did not say that he would review the SOPs and SOGs on raising ladders, and instructing the firefighter on proper procedures during training only implies that he had reviewed the SOPs and SOGs on raising ladders in order to instruct the candidate. Candidates are required to state what they mean and cannot receive credit for assumptive actions. The appellant missed the action noted by the assessors. His score for this component will not be changed.

CONCLUSION

A thorough review of the 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 10th DAY OF NOVEMBER, 2016



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