



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of James Finnegan III,
Police Lieutenant (PM1478R),
Lakewood

CSC Docket No. 2016-3684

Administrative Appeal

ISSUED: NOV 29 2016 (RE)

James Finnegan III requests a retroactive regular appointment to the title of Police Lieutenant, effective January 2, 2015, when he was assigned the duties of the title.

By way of background, James Finnegan III was regularly appointed to Police Sergeant on February 28, 2011. Mr. Finnegan took the examination for Police Lieutenant (PM1478R), Lakewood on September 26, 2013, and ranked first on the resultant eligible list. The list was promulgated on February 6, 2014, with a February 5, 2017 expiration date. This list was not certified when, in January 2015, the appellant was assigned the duties of a Police Lieutenant. Subsequently, the list was certified (PL1160284) on March 3, 2016, and the appellant received a regular appointment to Police Lieutenant on March 10, 2016.

In his appeal postmarked April 7, 2016, the appellant asserts that he was promoted on December 17, 2015, and had been acting as a *de facto* Police Lieutenant since January 2, 2015. He provides a memo from the Chief of Police dated January 2, 2015 which states, "Be advised that as the senior sergeant on Platoon #3 for 2015, Sgt J. Finnegan will be running the day to day operations of the shift. All correspondences between the command staff and Platoon #3 will go through Sgt. Finnegan." He submits several documents dated throughout 2015 regarding staffing and supervision of his platoon Sergeants, both from him to the Chief, and from the Chief and Captains to him. He provides an online newspaper article regarding a December 2015 police promotions ceremony wherein it states that Officer Jim Finnegan was promoted to lieutenant. The appellant states that he

has been the Sergeant in charge of the evening shift and three other Sergeants since January 4, 2015. He delayed in filing an appeal to avoid interference with a promotion.

As a result of this appeal, the appointing authority was asked to provide an explanation as to the delay in requesting a certification for appointment. In response, the appointing authority submitted a letter indicating that it resolved the matter by paying the appellant the difference in pay between the titles of Police Sergeant and Police Lieutenant for the time period he was working out of title from January 2, 2015 to December 17, 2015.

N.J.A.C. 4A:4-3.3(b) provides, in pertinent part, that promotional lists shall be promulgated for three years from the date of their establishment. *N.J.A.C. 4A:4-1.10(c)* provides that when a regular appointment has been made, the Civil Service Commission may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties.

CONCLUSION

In the instant matter, the appellant was supervising Police Sergeants officially from December 17, 2015 forward. The appellant has also provided documentation to indicate that he was supervising Police Sergeants unofficially, in an acting capacity, from January 2, 2015 to December 17, 2015. The appointing authority has paid him as a Police Lieutenant from January 2, 2015 forward, and has stated that he was working out of title from that date forward. This does not explain a delay in a request for a certification. Nevertheless, the appellant was first on the list and reachable for appointment. Based on these circumstances, the appellant should receive a retroactive regular appointment to January 2, 2015 from PL1160284.

ORDER

Therefore, it is ordered that the request be granted and James Finnegan III be provided with a regular appointment as Police Lieutenant, effective January 2, 2015. Mr. Finnegan's personnel record should be amended in accordance with this decision.

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 23rd DAY OF NOVEMBER, 2016



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