



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Debra Hayes,
Vineland Developmental Center,
Department of Human Services

Request for Reconsideration

CSC Docket No. 2016-3543

ISSUED: **NOV 3 0 2016** (HS)

Debra Hayes, a former Residential Living Specialist with Vineland Developmental Center (VDC), Department of Human Services, petitions the Civil Service Commission (Commission) for reconsideration of the attached final administrative decision, rendered on March 23, 2016, in which the Director of the Division of Appeals and Regulatory Affairs denied her request for a hearing with respect to her removal.

By way of background, in an April 30, 2015 Final Notice of Disciplinary Action (FNDA), the petitioner was removed, effective March 8, 2013, on charges of leaving the assigned work area without permission, creating a danger to persons or property; violation of a rule, regulation, policy, procedure, order or administrative decision; falsification: intentional misstatement of material fact in connection with work, employment, application, attendance or in any record, report, investigation or other proceeding; notoriously disgraceful conduct; intentional abuse or misuse of authority of position; conduct unbecoming a public employee; willful violation of any of the provisions of the Civil Service statutes, rules or regulations; and other sufficient cause. Specifically, the appointing authority asserted that the petitioner had falsified time sheets on 42 occasions, indicating that she was working for VDC at the Group Homes when she was not in fact on the premises; accepted payment for hours worked knowing that she was not entitled to compensation amounting to \$602.72; and had pled guilty to a local ordinance violation and been ordered to make restitution in the amount of \$602.72, which had not been received by VDC to date. The record indicates that the petitioner's FNDA was sent by certified mail on May

1, 2015 to her post office box address on file.¹ The tracking record of the certified mail shows delivery was made on May 4, 2015 and the mail was "Available for Pickup" that same date. Ultimately, the mail was returned to the appointing authority on May 20, 2015 as unclaimed. By letter postmarked March 3, 2016, the petitioner submitted an appeal to the Commission. Subsequently, she submitted a copy of the FNDA. However, since the petitioner did not submit her appeal within 20 days of receipt of the FNDA, the request for a hearing was denied.

In her request for reconsideration, the petitioner claims that she did not receive the FNDA, that it was never delivered to her post office box and that she had no knowledge of it. The petitioner states that she repeatedly contacted union representatives and others involved in her case for the status of her case. She argues that she should be given a new hearing and be reinstated.

The appointing authority, despite being provided the opportunity, did not present any arguments or documentation for the Commission's review.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding, which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. A review of the record in the instant matter reveals that reconsideration is not justified.

N.J.S.A. 11A:2-15 provides that appeals from major disciplinary matters be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. This 20-day time limitation is jurisdictional and cannot be relaxed or waived. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); See also, *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978). Further, *N.J.A.C. 4A:2-2.8(a)* states that "An appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee. Receipt of the Notice on a different date by the employee's attorney or union representative shall not affect this appeal period."

In the instant matter, the FNDA was sent to the petitioner by certified mail on May 1, 2015 to her post office box address on file, which also appears to be her current address. The tracking record of the certified mail shows delivery was made on May 4, 2015 and the mail was "Available for Pickup" that same date. Ultimately, the mail was returned to the appointing authority on May 20, 2015 as

¹ It is noted that the petitioner utilized the same address in filing the instant petition.

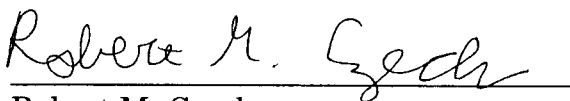
unclaimed. Other than general assertions, the petitioner provides no substantive evidence to dispute the tracking record. Under these circumstances, the petitioner did not meet the 20-day filing requirement, and she has not presented a basis to grant a hearing. Accordingly, the petitioner has not met the standard for reconsideration.

ORDER

Therefore, it is ordered that this request for reconsideration 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 23RD DAY OF NOVEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

- c. Debra Hayes
- Brenda Baxter
- Records Center



**STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION**

In the Matter of
Debra Hayes
Vineland Developmental Center,
Department of Human Services

CSC DKT. NO. 2016-3297

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Hearing Denied

ISSUED: **MAR 23 2016** BW

The Civil Service Commission considered the request for a hearing concerning Debra Hayes, represented by Robert Little, AFSCME Council 1, from her appeal of removal from the position of Residential Living Specialist, Department of Human Services and made the following findings of fact:

- 1. The Final Notice of Disciplinary Action sent by certified mail, was returned as unclaimed on May 20, 2015.
- 2. Your letter of appeal was postmarked March 3, 2016.

Since the appeal in this matter was not perfected within 20 days of receipt of the Final Notice of Disciplinary Action, the request for a hearing was denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

RE: Debra Hayes

DECISION RENDERED BY THE
DIRECTOR, DIVISION OF APPEALS
AND REGULATORY AFFAIRS
ON *MARCH 23, 2016*



HENRY MAURER
DIRECTOR

Inquiries
And
Correspondence

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c: Debra Hayes
Robert Little, AFSCME
Agency Services
Pensions
Vineland Developmental Center, Dept. of Human Services

