



STATE OF NEW JERSEY

In the Matter of Breonna Ligon-  
Hollinger, Family Service Worker  
(C0813R), Essex County

FINAL ADMINISTRATIVE  
ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-1233

List Removal Appeal

ISSUED: **NOV 29 2016** (JET)

Breonna Ligon-Hollinger appeals the removal of her name on the Family Service Worker (C0813R), Essex County eligible list on the basis of failure of a medical examination.

By way of background, Ms. Ligon-Hollinger's name appeared on the Family Service Worker (C0813R), Essex County eligible list, which promulgated on April 24, 2014 and expires on April 23, 2017. The list was certified on May 28, 2015 (OL150680) and Ms. Ligon-Hollinger's name was in the 26<sup>th</sup> position. In disposing the certification, the appointing authority removed Ms. Ligon-Hollinger's name from the list on the basis of failure of a medical examination. Thereafter, in response to a complaint filed by the appellant with the United States Equal Employment Opportunity Commission, the parties entered into a settlement agreement dated October 6, 2016, where the appointing authority agreed to appoint Ms. Ligon-Hollinger as a Family Service Worker.

On appeal, the appellant argues, among other things, that she complied with the appointing authority's physician's request as she followed up with her physician and obtained a medical clearance.

In response, the appointing authority, represented by Kecia Clark, Assistant County Counsel, submits a copy of the October 6, 2015 settlement agreement.

Additionally, the appointing authority requests that it be permitted to appoint the appellant from the list with a current date of appointment.<sup>1</sup>

### CONCLUSION

*N.J.A.C. 4A:4-1.10(c)* provides that when a regular appointment is made, a retroactive appointment date may be ordered due to administrative error, administrative delay or other good cause. Generally, this unique remedy has been reserved for two particular situations. First, retroactive appointment dates have been granted in circumstances in which an employee was actually serving in and performing the duties of a title, but, due to some error or other good cause, his or her attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment, and germane to this matter, is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing the appointment.

In the instant matter, a settlement was reached between the parties. The policy of the judicial system strongly favors settlement, and this policy is equally applicable in the administrative area. See *Nolan v. Lee Ho*, 120 *N.J.* 465 (1990); *Honeywell v. Bubb*, 130 *N.J. Super.* 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 *N.J. Super.* 472 (App. Div. 1961), *cert. denied*, 35 *N.J.* 61 (1961). A settlement will be set aside only where there is fraud or other compelling circumstances. See *Nolan, supra*. In this matter, no such compelling circumstances exist. Accordingly, the Civil Service Commission grants Ms. Ligon-Hollinger's appeal and restores her name to the subject eligible list. Further, the Commission grants a retroactive permanent appointment for the appellant to the title of Family Service Worker, effective July 20, 2015, which is the date all other eligibles on the May 28, 2015 certification were appointed, subject to completion of a current working test period. In this regard, the Commission notes that the date of the appellant's appointment is equitable under the circumstances. Given that the parties entered into a settlement agreement providing for her appointment, it essentially shows that her removal from the list was unjustified. Therefore, it would be unfair to penalize the appellant with a current effective date of appointment. This date is for salary step placement and seniority-based purposes only. However, the Civil Service Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

### ORDER

Therefore, it is ordered that this appeal be granted and Breonna Ligon-Hollinger's permanent appointment to the title of Family Service Worker be

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<sup>1</sup> It is noted that, in an e-mail dated October 7, 2016, the appointing authority originally requested to retroactively appoint the appellant.

recorded effective July 20, 2015, subject to the completion of the working test period. This date is for salary step placement and seniority purposes 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 23<sup>rd</sup> DAY OF NOVEMBER, 2016



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Attachment

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