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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Guadalupe Dagayday,
Director of Nursing Services 1,
Developmental Disabilities (Special),
Department of Human Services

List Removal Appeal

CSC Docket No. 2017-1298

ISSUED: APR 27 2017 (EG)

Guadalupe Dagayday appeals the removal of her name from the special reemployment list for Director of Nursing Services 1, Developmental Disabilities (Special), Department of Human Services.

As background, a review of official records indicates that the appellant served as a Director of Nursing Services 1, Developmental Disabilities at North Jersey Developmental Center. In June 2014, she exercised her demotional layoff title right to Assistant Director of Nursing Services 1, Psychiatric at Greystone Park Psychiatric Hospital (GPPH). As a result of the layoff, the appellant's name was placed on the subject special reemployment list. Subsequently, the subject special reemployment list was certified June 30, 2015 by Hunterdon Developmental Center (HDC). Initially, the appellant indicated that she was interested in the position. However, HDC indicated that it tried to contact the appellant several times by telephone to set up her fingerprint appointment but she failed to return its calls. Additionally, it sent the appellant a letter dated August 3, 2015, indicating that if it did not hear back from her within three business days, it would request that the appellant's name be removed from the Director of Nursing Services 1, Developmental Disabilities special reemployment list. A United States Postal Service return receipt card indicated that the appellant received the letter on August 5, 2015. Thereafter, the appellant's name was removed from the subject eligible list and a Notice of Removal (Notice) apprising her of this removal was sent to her by this agency.

On appeal, the appellant asserts in her October 2016 appeal that she learned from her selected home base, GPPH, that her name had been removed from the

subject special reemployment list. Additionally, she argues that while she had originally replied to the certification from HDC as interested, she later recanted her offer due to hardship. Specifically, the appellant claims that she submitted a letter to HDC informing them of her decision and indicating that she would wait for a position to open at GPPH. However, the appellant does not supply any evidence that such a letter was sent or received by the appointing authority.

Although provided the opportunity, the appointing authority did not submit any additional arguments or evidence for the Civil Service Commission (Commission) to review.

CONCLUSION

N.J.A.C. 4A:2-1.1(b) provides that an appeal must be filed within 20 days after the appellant knew or reasonably should have known of the decision, situation or action being appealed. Additionally, *N.J.A.C.* 4A:8-2.3(c)3 states that the removal of names from a special reemployment list may be made in accordance with applicable rules (*see N.J.A.C.* 4A:4-4.7 and 4A:4-6). Further, *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that a decision to remove his or her name from an eligible list was in error.

In the instant matter, the appellant's October 2016 appeal letter came over a year after her September 2015 Notice from the certification was sent. The only explanation provided by the appellant was that she recently found out she could appeal her removal from the eligible list. However, the Notice indicates an applicant's appeal rights, including the 20-day timeframe to file an appeal. Thus, the appellant had 20 days from her receipt of the Notice to file her appeal. In this regard, the appellant did **not** indicate that she did not receive the 2015 Notice. Accordingly, the appellant's appeal is found to be untimely.

Further, even assuming, *arguendo*, that the appellant did not receive the Notice, her arguments on appeal are not persuasive. She provides no explanation for failing to contact HDC in a timely manner. Further, the appellant provides no evidence that she mailed a letter to HDC changing her interest in a position with them. Moreover, she was clearly advised by the appointing authority in August 2015 that she was to be removed from the list and yet did not even attempt to appeal until October 2016.

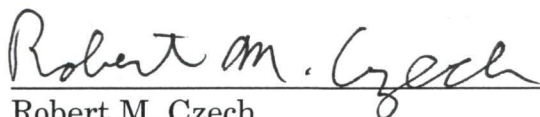
Therefore, based on the foregoing, the Commission finds that the appellant has not met her burden of proof that the removal of her name from the Director of Nursing Services 1, Developmental Disabilities (Special), Department of Human Services special reemployment list was improper. Accordingly, the appellant's appeal is denied.

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 ON
THE 19TH DAY OF APRIL, 2017



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