



**STATE OF NEW JERSEY**

In the Matter of Administrative  
Clerk (M0260V), Lakewood Fire  
District #1

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-1379

Appointment Waiver

**ISSUED: April 6, 2018 (AMR)**

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The Lakewood Fire District #1 (Lakewood) requests permission not to make an appointment from the August 28, 2017 certification for Administrative Clerk (M0260V).

The record reveals that the Lakewood provisionally appointed Yehuda Beer, pending open competitive examination procedures to the subject title, effective November 1, 2016. An examination was announced with a closing date of April 24, 2017 that resulted in a list of 17 eligibles with an expiration date of August 9, 2020. It is noted that Beer is no longer serving as an Administrative Clerk and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. However, it explained that although they are not making an appointment at this time, they may consider utilizing the list in the future for an appointment before the expiration date of the symbol.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

## CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Yehuda Beer, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the provisional was no longer serving in the subject title. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the Commission notes that the list in question will not expire until August 9, 2020. Further, the appointing authority has indicated its intention to utilize the list prior to its expiration. Thus, the utilization by this appointing authority is probable. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event it fails to utilize the list by its expiration date of August 9, 2020, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

## ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently be assessed.

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 4<sup>th</sup> DAY OF APRIL , 2018



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