



STATE OF NEW JERSEY

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

In the Matter of Clerk 3 (M0573U),
Lakewood

CSC Docket No. 2018-813

Appointment Waiver

ISSUED: JULY 18, 2019 (CSM)

Lakewood Township requests permission not to make an appointment from the August 7, 2017 certification for Clerk 3 (M0573U).

The record reveals that Lakewood provisionally appointed Susie Beck, pending open competitive examination procedures to the title subject title, effective January 1, 2016. An examination was announced with a closing date of January 25, 2017 that resulted in a list of 26 eligibles with an expiration date of August 2, 2020.

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. Specifically, the Director of Human Resources indicated that the employee who had been serving provisionally in the subject title was never provided the opportunity to become permanent in her prior provisional title, Keyboarding Clerk 2. However, the appointing authority notes that Beck was permanent as a Keyboarding Clerk 1. Although it is unclear as to why Beck was not provided the opportunity to become permanent as a Keyboarding Clerk 2, to rectify the subject certification situation, the appointing authority returned her to that title and Beck was subsequently permanently appointed to Keyboarding Clerk 2 effective September 7, 2017. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. *See N.J.A.C. 4A:10-2.2(a)1.*

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.

A review of agency records indicates that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

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 the result of the provisional appointment of Beck to 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 as it determined that, for reasons unexplained in the record, that Beck was never permanently appointed as a Keyboarding Clerk 2. In conjunction with the fact that there are no Clerk 3s provisionally serving with the appointing authority, 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 regard, the subsequent determination that a particular employee should have been made permanent in another title is insufficient to support a waiver of the costs of the selection process. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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
9TH DAY OF JULY, 2019



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