



STATE OF NEW JERSEY

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

In the Matter of Maintenance Worker
2, Grounds (PC0437V), Essex County

Administrative Appeal

CSC Docket No. 2019-725

ISSUED: September 13, 2019 (SLD)

The appointing authority's failure to dispose of the certification for Maintenance Worker 2, Grounds (PC0437V), Essex County (Essex), while a provisional is serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement.

The Commission has reviewed the salary disapproval issued against the salary of Seanique Smith and has made the following findings of fact:

1. Seanique Smith is currently serving provisionally in the title of Maintenance Worker 2, Grounds.
2. J.S., the sole individual currently on the subject eligible list has indicated his interest in the provisional appointment, and thus an outstanding certification (PL171017) was issued on August 21, 2017 from the PC0437V eligible list.
3. The certification has not been properly disposed of and the appointing authority was advised of the required date of disposition.
4. The Certification Manager issued a Notice of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such action to the Commission.

5. No such appeal was taken, and no proper disposition of the certification was received; the salary disapproval, therefore, became a final administrative action.
6. By not properly disposing of this certification, the appointing authority is in violation of Civil Service law and rules.

In the instant matter, the appointing authority has refused to properly dispose of the certification issued as the result of an individual on an incomplete eligible list who has indicated his interest in a provisional appointment currently filled by Smith, who had failed to file for the subject examination. *See N.J.S.A. 11A:4-8 and N.J.A.C. 4A:4-4.2(c)2i. See also, N.J.A.C. 4A:4-1.5(a)1.* The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salary for which there is a salary disapproval is illegal and contravenes Civil Service law and rules.

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

ORDER

The Commission orders the appointing authority to immediately dispose of the outstanding certification by making either a provisional or permanent appointment of J.S. or vacating the position. *See N.J.S.A. 11A:4-8 and N.J.A.C. 4A:4-4.2(c)2i.* Additionally, the appointing authority is ordered to immediately terminate Smith's provisional appointment as he failed to file for the subject examination. *See N.J.A.C. 4A:4-1.5(b).* Such disposition must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. If no proper disposition is made within this time period, the Commission orders the constructive appointment of J.S. *See N.J.A.C. 4A:10-2.1(a)3; In the Matter of Battalion Fire Chief (PM1640E), Deputy Fire Chief (PM1423H), Atlantic City, Docket No. A-229-87T7 (App. Div. December 8, 1988).*

The Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3 and N.J.A.C. 4A:10-3.2(a)5*, to be remitted within 30 days of the issuance of this order. In the event the appointing authority fails to make a good faith effort to fully comply with this order within this time frame, it is additionally ordered that fines be assessed in the amount of \$100 per day, beginning on the 31st day following the issuance of this order and continuing each day of continued violation, up to a maximum of \$10,000. *See N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2; In the Matter of Fiscal Analyst (M1351H), Highlands, Docket No. A-4347-87T3 (App. Div. February 2, 1989).* This matter will be referred to the Office of the Attorney General for enforcement and for recovery of illegal

payments and fines as assessed herein if full compliance is not effected within 30 days.

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 10TH DAY OF SEPTEMBER, 2019



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and
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