



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jessica Claudio,
Department of Children and Family
Services

Request for Reconsideration

CSC Docket No. 2018-3771

ISSUED: FEBRUARY 14, 2020 (BW)

Jessica Claudio, an Investigator 1, Child Protection with the Department of Children and Family Services, petitions the Civil Service Commission (Commission) for reconsideration of the attached decision, rendered on May 10, 2018, in which the Director of the Division of Appeals and Regulatory Affairs denied her request for a hearing with respect to her removal.

By way of background, a Final Notice of Disciplinary Action (FNDA), dated April 6, 2018, was sent certified mail to the petitioner's address on file, imposing removal due to inability to perform duties, conduct unbecoming a public employee, neglect of duty and misuse of public property, including motor vehicles. The petitioner filed an appeal to the Commission. The letter of appeal was postmarked May 3, 2018. On May 10, 2018, the Director determined that the petitioner's appeal was beyond the 20-day time period to file an appeal and the petitioner was denied a hearing. *See N.J.S.A. 11A:2-15.*

In her petition for reconsideration, the petitioner reiterates her argument from her original appeal that the Preliminary Notice of Disciplinary Action (PNDA) and the FNDA were not served in person or via certified mail. The petitioner states that her Union Representative has her new address and that the Hearing Officer stated the FNDA would be sent to her new address but it was mailed to her former address. Additionally, she indicates that on April 9, 2018 the Union Representative sent petitioner a text message informing her that he sent her an e-mail including the FNDA. Finally, she contends that she was advised by a Union Representative that she had 20 working days to appeal the FNDA, not 20 calendar days.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

N.J.S.A. 11A:2-15 and *N.J.A.C.* 4A:2-2.8(a) provide that an appeal from an adverse action specified in *N.J.S.A.* 11A:2-6a(4) must be filed within 20 days of receipt of the notice by the employee. This 20-day time limitation is jurisdictional and cannot be relaxed or waived. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); See also *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978). Additionally, *N.J.A.C.* 4A:1-1.3 defines “days” as calendar days unless otherwise specified. Finally, *N.J.A.C.* 4A:2-2.6(d) indicates that a FNDA should be furnished by “either personal service or certified mail.”

The petitioner’s argument that she was not properly served her PNDA and FNDA because it was not hand delivered or sent certified mail is not sufficient cause to grant her petition. In this regard, such a procedural deficiency in service is insufficient to extend the 20-day time period, which, per the cases cited above, is jurisdictional and cannot be extended. Further, as there is evidence in this case that the petitioner received the FNDA, the 20-day period must be imposed. As indicated above, appeals must be filed with 20 days of **receipt** of the FNDA. Petitioner acknowledges that she received her FNDA by e-mail on April 9, 2018. Petitioner had 20 calendar days per *N.J.A.C.* 4A:1-1.3 from receipt of her FNDA by e-mail starting on April 10, 2018 to submit her appeal. In this regard, any improper advice she may have received regarding the time-period cannot be used to extend the 20-day timeframe. Thus, as her appeal was postmarked May 3, 2018, it was clearly untimely.

Therefore, the petitioner has not demonstrated that a material error has occurred nor presented new evidence which would change the outcome of his case. Accordingly, the Commission finds no grounds on which to grant reconsideration.

ORDER

Therefore, it is ordered that this petition for reconsideration 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 12TH DAY OF FEBRUARY, 2020

Deirdre' L. Webster Cobb

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Chairperson
Civil Service Commission

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Attachment

c: Jessica Claudio
Linda Dobron, Department of Children and Families
Kelly Glenn
Records Center



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of
Jessica Claudio
Department of Children and Families

CSC DKT. NO. 2018-3157

Hearing Denied

ISSUED: MAY 10 2018 BW

The Civil Service Commission considered the request for a hearing concerning Jessica Claudio, from her appeal of removal from the position of Investigator 1, Child Protection, Department of Children and Families and made the following findings of fact:

1. The Final Notice of Disciplinary Action (FNDA) was received on April 9, 2018.
2. The letter of appeal was postmarked May 3, 2018.

The appellant states in her appeal that administrative regulations were not followed in regard to the service of both her Preliminary Notice of Disciplinary Action and FNDA. The appointing authority sent the FNDA by UPS to the appellant's address on file and it was delivered on April 10, 2018. However, her address has apparently changed as she submitted her appeal under a different address. Regardless, the appellant acknowledges that she received a copy of the FNDA by e-mail on April 9, 2018 from her union. It is the responsibility of the appellant to submit a change of address to the appointing authority. Moreover, even if the appointing authority was procedurally delinquent in its service, the record indicates that the appellant received the FNDA on April 9, 2018. Any procedural deficiency in the service of the FNDA does not extend the period to file an appeal where, as here, there is evidence that the appellant received the notice.

Since the appeal in this matter was not perfected within 20 days of receipt of the Final Notice of Disciplinary Action, the request for a hearing was denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
DIRECTOR, DIVISION OF APPEALS
AND REGULATORY AFFAIRS
ON 10th MAY 2018



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