



**STATE OF NEW JERSEY  
DEPARTMENT OF PERSONNEL**

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

In the Matter of Alexander Tkatscenko,  
Department of Transportation

CSC Docket No. 2018-2578

Administrative Appeal

**ISSUED: FEBRUARY 14, 2020 (BW)**

Alexander Tkatscenko, an Automotive Mechanic at the Department of Transportation (DOT), requests that the Civil Service Commission (Commission) reinstate the appeal of his 15 working day suspension, based on Tkatscenko's failure to appear at the scheduled status conference.

The pertinent facts of this matter are as follows: The petitioner was suspended for 15 days on the charge of neglect of duty. The petitioner appealed this action to the Commission which transmitted the matter to the Office of Administrative Law (OAL). The OAL scheduled the first telephonic status conference on May 24, 2018 and sent notice to the petitioner on May 17, 2018. On the scheduled date of the status conference, petitioner stated that he did not answer the call because he was on vacation. The OAL scheduled a second status conference on July 27, 2018 and sent notice to the petitioner on June 15, 2018. On the scheduled date of the status conference, the petitioner requested additional time to obtain counsel. The OAL scheduled the final status conference on September 17, 2018 and sent notice to the petitioner on August 23, 2018. On the scheduled date of the status conference, the petitioner did not answer stating his car was flooded and his phone was in the car. Based on these facts, the OAL issued a "Failure to Appear" Notice dated October 10, 2018, which indicated that the petitioner failed to answer at the scheduled time. The Failure to Appear notice also advised the parties that any excuse for failure to appear must be mailed to the Commission within 13 days of the date of the Notice. Accordingly, the matter was returned to the Commission for a final decision.

In support of the petitioner's request to reinstate his appeal, he initially states that he did not know that September 17, 2018 was the day of the status call.<sup>1</sup> He also states that his car was involved in a major flood and that his cell phone was in the car. Petitioner contends that he provided his home phone number to the courts and that he did not receive a call or a message on the machine.

In response, the DOT, represented by Nonee Lee Wagner, Deputy Attorney General, indicates that it was the petitioner who requested additional time to obtain counsel. Also, in the status conference held on August 17, 2018, petitioner agreed to the September 17, 2018 date to report to the court and counsel with his progress. Moreover, the DOT contends petition has not demonstrated that a clear material error occurred in the dismissal of his appeal due to his failure to appear. Finally, the DOT maintains that the petitioner was adequately notified verbally and by notice dated August 23, 2018 that his status conference was scheduled for September 17, 2018, and his request to reinstate his appeal should be denied.

### CONCLUSION

In the instant case, it is clear that petitioner has not sustained his burden of proof. He stated both that he had no idea that September 17, 2018 was the date of the status conference, and that his car was involved in a major flood and his cell phone was in the car. However, he has provided no evidence to that effect. OAL sent the notice to petitioner at his last known address. Moreover, there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Further, petitioner has not refuted that he verbally agreed to the September 17, 2018 status conference during the August 17, 2018 status conference. Accordingly, given that petitioner has not presented the Commission with any substantive evidence to excuse his absence, his request to reinstate his appeal is denied.

### ORDER

Therefore, it is ordered that the petitioner's request to reinstate his appeal be denied.

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

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<sup>1</sup> It is noted that the petitioner's address has not changed and that he did receive the prior two notices at the same address. It is also the same address that he is using for this appeal.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 12<sup>TH</sup> DAY OF FEBRUARY, 2020



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