



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Fire Prevention
Specialist (M0566U), Ridgewood

CSC Docket No. 2020-1594

Administrative Appeal

ISSUED: February 13, 2020 (RE)

In *In the Matter of Fire Prevention Specialist (M0566U), Ridgewood* (CSC, decided August 16, 2017), the Civil Service Commission (Commission) granted the request of the Ridgewood for an appointment waiver from the December 21, 2016 certification (OL161454) for Fire Prevention Specialist (M0566U), Ridgewood and ordered that no selection costs were to be assessed at that time since there was a possibility that the list could be utilized prior to its expiration. A copy of that decision is attached hereto and incorporated herein. However, the appointing authority did not utilize the subject eligible list and the matter of the assessment of costs is now before the Commission.

The pertinent facts of this matter are contained in *In the Matter of Fire Prevention Specialist, supra*. However, the certification was cancelled, and no appointments were made. Therefore, Ridgewood was notified that since the eligible list was not utilized by its expiration date, the matter of the costs for the selection process in the amount of \$2,048 would be forwarded to the Commission for a determination. In reply, Ridgewood states that it should not have to pay costs as it separated the provisional employee, David Yaden, on June 1, 2016 prior to the issuance of the list on December 15, 2016. Specifically, it explains that Ridgewood had two rounds of personnel layoffs in 2010. Instead of laying off paid Fire Fighters, "Fire Inspectors" (Firefighters) were put back to work in a platoon, instead of having them work separately in the Fire Prevention Bureau. In doing so, it was necessary to hire part-time personnel, Yaden, a retired Deputy Fire Chief, to get the fire inspections completed. Ridgewood returned the "Fire Inspectors" to the Fire Prevention Bureau in the spring of 2016 and separated Yaden on June 1, 2016, as it

could no longer afford his position. Nonetheless, his separation was not recorded until March 21, 2017. Ridgewood argues that there is no need to hire Fire Prevention Specialists, and it has not used that title since 2016 and has no plans to use it.

CONCLUSION

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 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. The amount of \$2,048 has been determined to be the cost of the selection process for open-competitive examinations for local government positions. In the instant situation, although the appointing authority had shown a valid reason for not making an appointment from the subject eligible list, it failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list.

In this regard, the appointing authority did not notify the Civil Service Commission of Yaden's separation from service in a timely manner. Yaden remained in a provisional position pending open-competitive examination for almost five years, nine months, from September 6, 2010 to June 1, 2016. On August 1, 2016 an examination for Fire Prevention Specialist (M0566), Ridgewood, was announced with a closing date of August 25, 2016, and still Ridgewood did not communicate Yaden's separation from service. An eligible list was promulgated in on December 15, 2016, with an expiration date of December 14, 2019, and Ridgewood did not update Yaden's County and Municipal Personnel System (CAMPS) record. The certification (OL161454) was issued on December 21, 2016, with the required disposition date of March 21, 2017. On that date, Yaden's separation from service was recorded with an effective date of June 1, 2016 was a note indicating that Ridgewood has discontinued the use of Fire Prevention Specialists. Nonetheless, Ridgewood did not return the certification.

Although the Commission is sympathetic to the budgetary constraints faced by the appointing authority at the time, those constraints were in 2010, over six years prior to the issuance of the list, and the appointing authority has not provided any documentation in support of its claims. Additionally, the appointing authority did not properly record Yaden's separation from service in a timely fashion, but did so on the certification's (OL161454) due date, and did not return the certification after repeated notifications. The appointing authority's claim is that it was working

Firefighters out-of-title in investigations, and had to return them to proper duties during a 2010 layoff, when they hired Yaden. Over five years later, they returned the Firefighters to out-of-title duties and separated Yaden from service shortly thereafter. This situation warrants a classification review of Firefighter positions in the Fire Prevention Bureau. Also, it is appropriate that the appointing authority be assessed the costs of the selection process.

ORDER

Therefore, it is ordered that the appointing authority be assessed the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision, and the matter of the classification of Firefighter positions in the Fire Prevention Bureau be referred to Agency Services for review.

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



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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Fire Prevention
Specialist (M0566U), Ridgewood

CSC Docket No. 2017-3090

Appointment Waiver

ISSUED:

(RE)

Ridgewood requests permission not to make an appointment from the December 21, 2016 certification for Fire Prevention Specialist (M0566U).

The record reveals that Ridgewood provisionally appointed David Yaden, pending open-competitive examination procedures, to the title of Fire Prevention Specialist, effective September 6, 2010. An examination was announced with a closing date of August 25, 2016. The resulting eligible list of nine eligibles promulgated on December 15, 2016 and expires on December 14, 2019. Although Yaden was separated from service on June 1, 2016, the appointing authority did not notify the Civil Service Commission (Commission) of his separation until March 21, 2017, and Ridgewood took no action to obviate the need for the examination at the time of the announcement. On December 21, 2016, the names of all nine eligibles were certified from the eligible list. Ridgewood returned the certification and requested a waiver of the appointment requirement stating that it no longer used the title. However, Ridgewood stated that if it was determined that the title would need to be used in the next three years, it would utilize the list.

Ridgewood'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. Personnel records reveals that there are no employees serving provisionally in the subject title with Ridgewood. In response, Ridgewood reiterated that the provisional is no longer serving in the title.

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 for a list 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 title of Fire Prevention Specialist was generated as a result of the provisional appointment of Yaden. After a complete certification was issued, Ridgewood indicated that Yaden had been terminated from employment and that Ridgewood no longer uses this title. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

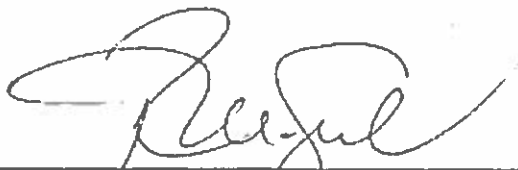
Although the appointment waiver is granted, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although Yaden was not still serving provisionally at the time of the certification, the appointing authority had not notified the Commission of his separation nor requested a cancellation of the examination. However, since Ridgewood indicated that it may use the list in the future, it is appropriate to defer selection costs at this time. Nevertheless, in the event that the appointing authority fails to utilize the list by its expiration date of December 14 2019, 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 appointment waiver 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
THE 16th DAY OF AUGUST, 2017



Robert M. Czecch, Chairperson
Civil Service Commission

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