

STATE OF NEW JERSEY

In the Matter of Eric Mason, **Atlantic City**

CSC Docket No. 2016-648

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

Layoff Appeal

ISSUED: SEP 1 7 2015

(RE)

Eric Mason, a former Boiler Operator with Atlantic City appeals the determination of his layoff rights by the Division of Agency Services (DAS).

By way of background, Atlantic City submitted a layoff plan to the Civil Service Commission to lay off employees in various titles and departments, effective June 26, 2015, for reasons of economy and efficiency and 228 positions were targeted. Some layoffs were postponed to July 31, 2015, the end of August, and mid-September 2015. As a result, a review of official records indicates that Mr. Mason's position was targeted, and he was laid off on June 26, 2015.

On appeal, the appellant argued that he was being laid off because he is not a Senior Boiler Operator, a title which is given to employees on the day shift. He states that he cannot work the day shift. He states that he is third in seniority and should be able to keep his position on the third shift. He also indicates that another employee, Tremayne McQueen, has less seniority than him, and a lower license, but has been retained.

Commission staff informed the appellant by letter that layoffs are based on class code, title, and seniority as of the effective date, and assigned shift or possession of licenses are not factors. Regardless of why he was not in the Senior Boiler Operator title, his position as a Boiler Operator was targeted. The fact that a Senior Boiler Operator with less seniority than he was retained is not evidence of misapplication of layoff rights, as the title Senior Boiler Operator is in a higher class code than Boiler Operator. The appellant was informed that Mr. McQueen is

a Senior Boiler Operator and, irrespective of seniority, he does not have rights to Mr. McQueen's position.

In reply, the appellant states that Senior Boiler Operator is not a supervisory position, and "was a made up position under the Supervisor just to help out, not to supervise." He states that his start date was August 3, 1998, while Mr. McQueen's was February 2001. He adds that he is available to work any shift needed, and this layoff was about pensions which is a good faith issue.¹

CONCLUSION

In an appeal of this nature, it must be determined whether DAS properly applied the uniform regulatory criteria found in *N.J.A.C.* 4A:8-2.1 *et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. See Malone v. Fender, 80 N.J. 129 (1979). In this case, the appellant was permanent in the title Boiler Operator, and Mr. McQueen was permanent in the title Senior Boiler Operator, which is an actual title in Civil Service classification. As Mr. McQueen is in a higher title, which is considered before seniority, the appellant does not have rights to Mr. McQueen's position. The appellant's availability to work a shift, and any pension issues are irrelevant to this determination. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

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

¹ The appellant's good faith appeal has been transmitted to the Office of Administrative Law.

DECISION RENDERED BY THE CIVIL SERVICE COMMISSION ON THE 16th DAY OF SEPTEMBER, 2015

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