



B-17

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Marisol Perez,
Department of Human Services

CSC Docket No. 2016-723

Layoff Appeal

ISSUED: **SEP 17 2015**

(RE)

Marisol Perez, a former Residential Services Worker with the Department of Human Services, Woodbridge Developmental Center, appeals her layoff rights with regard to her demotion in lieu of layoff to Senior Building Maintenance Worker.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Agency Services (DAS) to lay off employees in various titles due to the closure of the Woodbridge Developmental Center, effective January 9, 2015. Numerous positions in various titles at several institutions were affected. A review of official records indicates that Ms. Perez' position was targeted, and the appellant was demoted to Senior Building Maintenance Worker at Anne Klein Forensic Center.

In an appeal postmarked July 30, 2015, the appellant states that she "applied for special location to the Hunterdon County facility," and she provides copies of her Reduction in Force Final Notice and Declaration Form. She states that she was not properly placed on the "waiting list."

CONCLUSION

Initially, pursuant to *N.J.A.C.* 4A:8-2.6(b)2, appeals shall be filed within 20 days of receipt of the final notice of status required by *N.J.A.C.* 4A:8-1.6(f). Appeals must specify what determination is being appealed, the reason for the appeal, and the relief requested. A review of the Reduction in Force Final Notice indicates that the appellant was served the final notice on November 19, 2014. As such, her 20

day period to file an appeal ended December 9, 2014. As she did not pursue an appeal of this issue until July 30, 2015, this appeal is untimely. Nevertheless, for informational purposes, the Commission will address the merits of her appeal.

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.

All employees were advised of the layoff and final interview processes and provided with resources to answer questions before the layoff was administered. Each received a 45-day Layoff Notice. Impacted employees were required to attend a general employee briefing, and union representatives were invited to attend, at which the layoff procedure was explained. Next, employees attended a Declaration Form session, which may or may not have occurred at the same time as the general briefing. Each employee received a Declaration Form, which provided information such as what the employee would accept as a layoff option. They were provided with instructions on how to fill out the Declaration form, which included preferences, and they were shown maps of the State indicating agency locations. They were told to review geographical locations, travel distances, transportation options, and lowest salary requirements. When they were given the information regarding their specific title rights, they expressed their choices in priority order of most desirable to least desirable.

On her declaration form, the appellant did not check off Hunterdon County in the Special Reemployment Location section. As such, Hunterdon County was not checked off on section 2, Special Reemployment Location Preferences, of her Reduction in Force Final Notice. At the bottom of the Declaration Form she added her signature indicating that she read the instructions for completing the form and understood the purpose of the form. This form clearly states, "You will not be offered reemployment opportunities in locations you do not check." The Reduction in Force Final Notice indicated that employees had 30 days from the effective date of the layoff to amend the Special Reemployment selections. Thus, the appellant had until February 8, 2015 to change her selections. That time has expired.

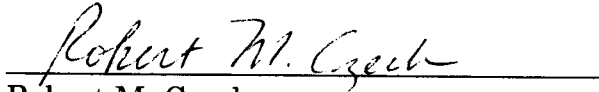
The appellant has not established any error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights. The appellant has not met her burden of proof in this matter.

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.

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


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