



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Marc Lodato, Tree  
Maintenance Worker 2 (PM1842T),  
Woodbridge

Examination Appeal

CSC Docket No. 2016-3188

ISSUED: **NOV 16 2016** (SLK)

Marc Lodato appeals the determination of the Division of Agency Services (Agency Services) that he was below the minimum requirements in experience for the promotional examination for Tree Maintenance Worker 2 (PM1842T), Woodbridge.

The examination at issue was announced with specific requirements that had to be met as of the September 21, 2015 closing date (see attached). The appellant was the only employee that applied for the examination which was cancelled due to a lack of qualified applicants.

On his application, Mr. Lodato indicated that he was provisionally serving in the subject title from March 2004 to the September 21, 2015 closing date. Personnel records indicate that he was provisionally serving in the subject title from June 2015 to the September 21, 2015 closing date, a Maintenance Repairer/Maintenance Worker 1 Grounds from November 11, 2013 to June 2015, a Laborer 1 from May 2009 to November 2013, and a Laborer Heavy from March 2005 to May 2009. Agency Services credited him with four months of experience based on his provisional service in the subject title, but determined that he lacked eight months of experience.

On appeal, Mr. Lodato presents that he has been working with the tree crew since 2009 and attaches several arboriculture certificates that he has earned. He submits a letter from George Brew, Superintendent of Parks, who confirms that he

has been working in the Park Department's Tree Maintenance Crew since 2009 performing the required duties.

### CONCLUSION

*N.J.A.C.* 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process.

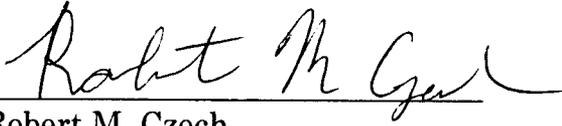
Initially, it is noted that Agency Services correctly determined that the appellant was not eligible for the subject examination. The appellant was credited with four months of experience based on his provisional service in the subject title, but he lacked eight months of the required experience needed to establish eligibility. Any relevant experience the appellant gained as a Maintenance Repairer/Maintenance Worker 1 Grounds and a Laborer 1 would be out-of-title-work. However, Mr. Brew confirmed that he has been performing the required out-of-title duties as a Maintenance Repairer/Maintenance Worker 1 Grounds and a Laborer 1 since 2009 and the appellant has earned several certifications related to tree maintenance. Additionally, the examination was cancelled due to a lack of qualified applicants and the appellant continues to serve provisionally in the title under test. Accordingly, good cause exists to accept the appellant's out-of-title work experience and experience after the closing date, for eligibility purposes only, and to admit him to the examination.

### ORDER

Therefore, it is ordered that the appeal be granted, the cancellation of the examination be rescinded and Marc Lodato's application be processed for prospective employment opportunities only.

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 10<sup>th</sup> DAY OF NOVEMBER, 2016



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: Marc Lodato  
Robert Landolfi  
Kelly Glenn  
Records Center

NEW JERSEY CIVIL SERVICE COMMISSION  
COUNTY AND MUNICIPAL GOVERNMENT SERVICES  
**PROMOTIONAL ANNOUNCEMENT**



**\$25.00 PROCESSING FEE REQUIRED**  
Make Check/Money Order Payable to NJCSC

SYMBOL: <b>PM1842T</b>	WEIGHT CODE: *
TITLE: <b>TREE MAINTENANCE WORKER 2</b>	SALARY: <b>\$ 20.00- \$ 35.00 / Per Hour</b>
ISSUE DATE: <b>September 01, 2015</b>	CLOSING DATE: <b>September 21, 2015</b>
TITLE CODE: <b>03631/ U3RMR2</b>	JURISDICTION CODE: <b>N12250005</b>
JURISDICTION: <b>WOODBIDGE</b>	
DEPARTMENT: <b>PARKS AND RECREATION</b>	

Visit [www.state.nj.us/csc](http://www.state.nj.us/csc)  
And select "Job Announcements"  
to view this announcement and to file an application

**Open to employees in the non-competitive division who have an aggregate of one year of continuous permanent service as of the closing date, are currently serving in the following title(s) and meet the requirements listed below:**

**Tree Maintenance Worker 1 04220**

**Or to all employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date, and meet the requirements listed below:**

Experience: One (1) year of experience in the care and maintenance of trees and shrubs, which shall have included the use and/or operation of manual or mechanical equipment used to climb trees.

License: Appointees may be required to possess a driver's license valid in New Jersey only if the operation of a vehicle rather than employee mobility, is necessary to perform the essential duties of the position.

The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicles they operate, rests with the Appointing Authority.

**IMPORTANT INFORMATION**

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. **ONLY ON-LINE APPLICATIONS WILL BE ACCEPTED. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL.** Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title **SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.**
5. In accordance with Public Law 2010 c.26, **Veterans pay a reduced application fee of \$15.00** if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. **PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES.** (i.e. Police, Fire, Corrections and Sheriff).
6. **If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings. Please Email: [OAS.support@csc.state.nj.us](mailto:OAS.support@csc.state.nj.us) or call (609) 292-4144. Please note that application support requests received outside of regular business hours on the closing date will not change the application filing deadline, so PLEASE FILE EARLY.**

DPF-256A \* Revised 03/09