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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Monique DaSilva,
Fire Fighter (M2554M), City of
Newark

List Removal Appeal

CSC Docket No. 2016-2683

ISSUED: **MAR 24 2017** (SLD)

Monique DaSilva appeals the City of Newark's (Newark) request to remove her name from the eligible list for Fire Fighter (M2554M), on the basis that she failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open competitive examination for Fire Fighter (M2554M), which had a closing date of March 31, 2010. The resulting eligible list promulgated on December 13, 2011 and expired on December 12, 2015.¹ The appellant's name was certified to the appointing authority on December 2, 2015. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that she failed to respond to the certification notice

In support of her appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that she did not receive the certification notice. Moreover, she asserts in her statement that although she had moved, she had contacted this agency several years ago to update her address.

The appointing authority, despite being provided the opportunity, did not present any arguments or documentation for the Commission's review.

¹ The original expiration date of December 12, 2014 was extended for one year.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove her name from an eligible list was in error.

The appointing authority requested the removal of the appellant's name from the eligible list for Fire Fighter (M2554M) on the basis of her failure to respond to the December 2, 2015 certification. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that she did not receive the certification notice and that she had contacted this agency to update her address. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her sworn, notarized statement. *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). Thus, it is appropriate that her name be restored to the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Fire Fighter (M2554M), Newark be revived in order for the appellant to be considered for appointment at the time of the next certification 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 22ND DAY OF MARCH, 2017



Robert M. Czech
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and
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