



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Senior Public Works
Repairer (PM0094U), Vernon

CSC Docket No. 2017-2721

Appointment Waiver

ISSUED: **MAY 19 2017** (RE)

Vernon requests permission not to make an appointment from the May 12, 2016 certification for Senior Public Works Repairer (PM0094U).

The record reveals that Vernon provisionally appointed Anthony Alexander, pending promotional examination procedures, to the title of Senior Public Works Repairer, effective November 1, 2015. As a result of the provisional appointment, an examination was announced with a closing date of January 21, 2016. The resulting eligible list of nine eligibles, including Alexander, promulgated on May 5, 2016 and expires on May 4, 2019. On May 12, 2016, the names of all nine eligibles were certified from the eligible list. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. The certification (PL160626) had a disposition date of August 12, 2016. Thereafter, Alexander, who ranked second on the list, was provisionally promoted pending promotional examination to Assistant Supervisor Public Works on September 13, 2016. Also, the certification was returned on September 13, 2016 with no appointments.

Vernon'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 \$1,114.00. In response, Vernon explained that there were retirements which resulted in a newly-hired Appointing Authority and businesses administrator. The certification disposition date passed as these individuals were examining the needs of the department. They maintain that they were unfamiliar with civil service rules and guidelines regarding appointments and

were unaware of the time frames involved. Thereafter, Mr. Alexander was provisionally promoted to Assistant Supervisor Public Works, and the list was not utilized. Nevertheless, Vernon states that it will be requesting another certification from the subject list in order to fill future vacancies.

Personnel records reveals that there are no employees serving provisionally in the subject title with Vernon.

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 Senior Public Works Repairer was generated as a result of the provisional appointment of Anthony Alexander. After a complete certification was issued, Vernon provisionally promoted Alexander to a higher title and did not make an appointment by the disposition date, but requested an appointment waiver. It stated that newly appointed personnel were unfamiliar with regulations and time frames, and it needed time to assess personnel needs. Accordingly, based on the foregoing, the appointing authority has presented sufficient justification for an appointment waiver.

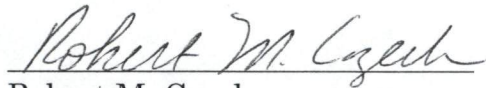
Although the appointment waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the 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. However, the appointing authority indicates that it may utilize the subject list prior to its expiration date of May 4, 2019. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event the appointing authority fails to utilize the list by its expiration date of May 4, 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 ON
THE 17th DAY OF MAY, 2017



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