

B-25



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Hero Dengah,  
Fire Fighter (M1556T), Newark

CSC Docket No. 2017-2965

Examination Appeal

ISSUED:

MAY 03 2017

(RE)

Hero Dengah appeals his score for the physical performance portion of the examination for Fire Fighter (M1556T), Newark.

The record establishes that appellant took the subject portion of the examination on March 9, 2017. The physical performance portion of the exam consisted of three parts, the obstacle course, the ladder climb, and the darkened maze, and each portion had a passing point. The ladder climb and the darkened maze were pass/fail, i.e., candidates who performed the exercise faster than the passing time passed that portion of the exam, and those who performed the exercise slower than the passing time failed. The passing time for the ladder exercise was 33 seconds, while the passing time for the darkened maze was 40 seconds. The obstacle course was also pass/fail. That is, those candidates who performed faster than the passing time passed that portion of the exam. Those who performed slower than the passing time failed the examination. The passing time for the obstacle course was five minutes (300 seconds).

In a letter postmarked March 23, 2017, the appellant appealed that he could not hear the command "go" at that start of the darkened maze crawl, and thus he had a late start. He was denied a retest on site and states that he was not given appeal rights.

N.J.A.C. 4A:4-2.15(b)2, Rating of examinations, states that, "examinations consisting of more than one part may be rated independently, and candidates who do not receive a passing score on one part of an examination shall be deemed to



have failed the entire examination.” Thus, it was necessary to pass all three portions of the physical performance examination in order to pass the exam. If a candidate did not complete any one of the three physical performance exercises in under the allotted times, that candidate failed the examination.

*N.J.A.C. 4A:4-6.4*, (Review of examination items, scoring and administration) states that appeals pertaining to administration of the examination must be filed in writing at the examination site on the day of the examination.

## CONCLUSION

The appellant filed an appeal of test administration two weeks after the examination was given. As such, this appeal is clearly untimely. Appeals of test administration must be filed in writing at the examination site on the test date. See *N.J.A.C. 4A:4-6.4(c)*. Monitors are required to make an announcement before the start of each examination that, should a candidate wish to appeal the test administration, he or she **must** do so at the test center. The Appellate Division of Superior Court has noted that “the obvious intent of this ‘same-day’ appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered.” See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003). The appellant claims he was not provided of his right to file an appeal on the test site on the date of the examination, however, he provides a copy of the Appeal Procedures sheet that was given to each candidate on site. This sheet states that “Any appeal pertaining to the administration (manner in which the PPT was administered ONLY) of your PPT must be made in writing prior to leaving the test center on the day of your PPT.” This was repeated to all candidates at the test center.

Nevertheless, even if this appeal was timely, the appellant has not presented a persuasive argument for a retest. Each Center Supervisor makes notes of non-routine occurrences in the testing center. In this case, the Center Supervisor notes indicate that the appellant completed the darkened maze crawl in 41.56 seconds. No extraordinary circumstances were noted. As the passing point was 40 seconds, the appellant failed this portion of the PPT. Fourteen days later, the appellant appealed that he was instructed to commence upon the command of “Go,” but was unable to clearly hear the command and had a late start. All candidates had access to the physical performance test, physical fitness manual which provides a description of the darkened maze crawl. This document states, “The candidate enters one end of the maze to the ‘Start’ position (at the first curtain), stops, and waits for the Examiner to give the command, “Ready – Go.” The candidate then proceeds to the far side exit.” On another document available to all candidates, the 2015 Fire Fighter Physical Performance Test (PPT) Process Description, it states, “The candidate will enter the maze and get into a crawling position with his or her



hands behind the starting line. When the candidate is in position, the outside cover will be closed, cutting off any light to the interior. At the command "Ready, go," the candidate will crawl through the maze until reaching the finish line. When the candidate reaches the finish line, the exercise is complete." The appellant also saw a video with instructions. The monitor read the instructions in full, then asked the candidate if he is ready, then gave the command, "Ready Go" and started the clock. Thus, candidates are given the opportunity to prepare for the start of this portion on PPT, and the appellant was not treated any differently than any other candidate. This appeal is untimely and the appellant's argument that he could not hear the command to go is unpersuasive. The appellant will not be provided with a retest.

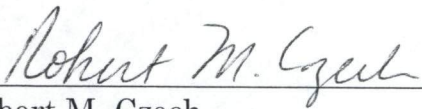
A thorough review of the record indicates that the determination of the Division of Test Development and Analytics was proper and consistent with Civil Service Commission regulations, and that the appellant has not met his burden of proof in this matter.

### 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.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 3<sup>rd</sup> DAY OF MAY, 2017



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

c: Hero Dengah  
Michael Johnson