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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of LaQuan
Shamberger, Fire Fighter (M2554M),
Newark

CSC Docket No. 2017-1547

List Removal Appeal

ISSUED: July 5, 2017 (CSM)

LaQuan Shamberger, represented by Bette R. Grayson, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M2554M), Newark, on the basis of falsification of his employment application and failure to meet the residency requirement.

The subject examination was announced with a March 31, 2010 closing date. It is noted that the subject list expired on December 12, 2015. In disposing of the December 2, 2015 certification, the appointing authority requested the removal of the appellant's name, contending that he had falsified his application and for failure to meet the residency requirement. In its request, the appointing authority indicated that the appellant responded "no" to question #51 on application, which asks, "Was your Motor Vehicle Registration Certificate, Driver's or other vehicle operator's license ever revoked or suspended?" However, his drivers abstract indicated his license was suspended on four different occasions between January 2004 and October 2007. The appointing also provided a copy of his Motor Vehicle Services Address Change History which listed a Maplewood address from March 2012 to April 2013; a Bloomfield address from April 2013 to August 2014; and a Newark address from August 2014.

On appeal, the appellant states that he grew up dividing his time between his mother's home in Irvington and his father's home in Newark. In 1999, he indicates that he began living all of the time with his father, but did not realize that his license was still addressed to his mother's home for several years. However, when the discrepancy was called to his attention, he transferred his license to the Newark

address. Subsequently, the appellant states he purchased a property in Maplewood as a rental investment, but within a year, the roof was damaged which caused problems with the tenant paying the rent. Thus, the appellant explains that he "had to have the address of the property in order to qualify for a casting of the mortgage." As such, the appellant states that "he had to use the Maplewood address for his driving license and paystubs to qualify for the mortgage recasting." Further, he states that he was required to change his address to Bloomfield in order to co-sign for his girlfriend's car loan. Regardless, the appellant maintains that at no time did he reside in either the house in Maplewood or Bloomfield and always continued to live in Newark. In support of his assertions, the appellant provides transcripts, copies of leases, credit reports, IRS Wage and Income Transcripts. With respect to his driving license suspensions, the appellant indicates that he did not remember the suspensions due to his not receiving the notice, not being aware of having received a ticket, and did not have a vehicle to operate in February and March of 2013.

Although provided the opportunity, the appointing authority did not provide any additional information or argument for the Civil Service Commission (Commission) to review in this matter.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the removal of an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *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 his or her name from an eligible list was in error.

N.J.A.C. 4A:4-2.11(c)1 provides that when an appointing authority requires residency as of the date of the appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. *N.J.A.C.* 4A:4-4.7(a)7 provides that discontinuance of an eligible's residence in the jurisdiction to which an examination was limited or for a title for which continuous residence is required is a cause for disqualification from an eligible list.

In the instant matter, the appointing authority properly removed the appellant's name from the subject list. While the appellant states that he did not recall that his license was suspended on four different occasions for various reasons, an applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991). The information that the appellant failed to disclose is

considered material and should have been accurately indicated on his employment application. The Appellate Division of the New Jersey Superior Court in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant.

With respect to his residency, the appellant states that he was required to maintain the Maplewood address on his driver's license in order to recast a loan and the Bloomfield address in order to co-sign for his girlfriend's car loan, but he nevertheless actually resided in Newark. In support of this assertion, he provides various documents indicating a Newark address. However, in *In the Matter of LaQuan Shamberger, Fire Fighter (M2543M)*, Kearny (CSC, decided December 7, 2016), in its request to remove his name from the list, Kearny provided copies of the appellant's original 2012 State and federal income tax returns and a W-2 indicate a Maplewood address, an Equifax credit report lists the appellant's current address as Maplewood as of June 2015, a Motor Vehicle Services Address Change History report lists the appellant's residential address as Maplewood to August 22, 2014, and T-Mobile phone bills dated February and March 2015 list the appellant's Maplewood address. The appellant also indicated in that appeal, contrary to his assertions in the instant matter, that he did not utilize the Newark address in order to lower his automobile insurance liability. Therefore, the Commission does not find his explanation regarding the Maplewood and Bloomfield addresses persuasive.

Moreover, as noted in *Shamberger, supra.*, it is recognized that a firefighter occupies a highly visible and sensitive position within the community and the standard for an applicant includes a good character and utmost confidence and trust. See N.J.S.A. 40A:14-9 which provides, in pertinent part, that except as otherwise provided by law, no person shall be appointed as a member of the paid or as a paid member of a part-paid fire department and force unless he is of good moral character. The appellant's explanations regarding his utilization of various addresses other than the address at which he purportedly resides for his official Motor Vehicle Services records in order to obtain loans is troublesome. These actions are unacceptable for an individual applying for the position of Fire Fighter and do not reflect good moral character. Thus, the appellant's actions in this regard provide a further basis on which to remove his name from the list.

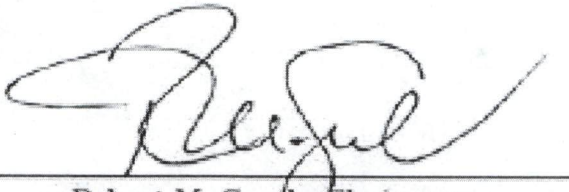
Therefore, the appointing authority has presented a sufficient basis to remove the appellant's name from the Fire Fighter (M2554M), Newark eligible list for falsification of the employment application and failure to meet the residency requirement and the appellant has failed to meet his burden of proof 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 ON
THE 21st DAY OF JUNE, 2017



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