



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE  
ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Paul DeJesus, Fire  
Fighter (M2554M), Newark

CSC Docket No. 2017-1577

List Removal Appeal

**Corrected Decision**

ISSUED: August 30, 2017 (CSM)

Paul DeJesus, 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 his 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 for failure to meet the residency requirement. In its request, the appointing authority indicated that the appellant did not conceal the fact that he moved out of Newark during the course of his candidacy and stated that he was forced to move because he feared for his safety after being the victim of a carjacking.

On appeal, the appellant states that on July 4, 2012, while he and his wife were picking up his wife's grandmother to take her to the airport, he was carjacked. His vehicle was found abandoned on July 9, 2012. Subsequently, a complaint was issued against the perpetrator on August 21, 2012. The appellant explains that he was called to identify the possible carjacker and testify before a grand jury, but given the confusion surrounding the incident, was unable to identify the suspect. As such, the suspects were not indicted. A few weeks later, the appellant claims that the carjackers would slowly drive by his home or double park in the street in front of his home for 10 to 15 minutes. Further, in early October, the appellant states that his vehicle was broken into, which he believed was perpetrated by the carjackers to send him and his wife a message that the next time, they would be hurt. Given his anxiety surrounding the situation, and the fact that his wife was

expecting a baby, the appellant presents that they fled their apartment for their safety and temporarily took residence in Harrison on December 18, 2012. The appellant notes that the perpetrators were finally caught, but he and his wife separated in February 2016, which resulted in him moving back to Newark. Although he temporarily resided in Harrison for 14 months, the appellant maintains that he always considered himself a Newark resident and only moved to safeguard his pregnant wife and future child. In support of his appeal, the appellant provides various documents indicating a Newark address.

In response, the appointing authority, represented by Kimberly K. Holmes, Assistant Corporation Counsel, provides a copy of the background investigation it conducted and application materials provided by the appellant. As part of the investigation, the appellant explained to the investigator that he never reported the incidents concerning the carjackers driving by his house or double parking in front of his house because they "never stepped up to me." Additionally, the investigator checked police records for calls for service between July 4, 2012 and December 18, 2012 in the neighborhood of the appellant's Newark address and found no reports or calls for police service. Further, a burglary reported by the appellant occurred in May 2009, prior to the carjacking in 2012, and neither the appellant nor any member of his family filed or called the police for any complaints of harassment after the carjacking. Therefore, the appointing authority maintains that it properly removed the appellant from the list.

### CONCLUSION

*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.

*N.J.A.C. 4A:4-2.11(b)* provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;



2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

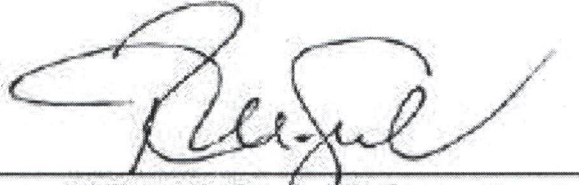
In the instant matter, the appointing authority properly removed the appellant's name from the subject list. The appellant asserts that he moved out of Newark for safety reason in December 2012. However, the carjacking occurred in July 2012 and there is no evidence that the appellant or any member of his family filed complaints or requested police assistance because they were allegedly being harassed up to the time he moved. Moreover, while the appellant claims that his stay in Harrison was temporary, he indicates that he only moved back to Newark because he and his wife separated in February 2016. As such, the Commission is not persuaded by the appellant's arguments. Moreover, even assuming he maintained continuous residency during the life of the list, a review of the certification reveals that his name could have been bypassed and his appointment was not mandated. Therefore, since the appellant did not reside in Newark for a 14-month period during the life of the list, the appointing authority has presented a sufficient basis to remove his name from the Fire Fighter (M2554M), Newark eligible 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 21<sup>st</sup> DAY OF JUNE, 2017

A handwritten signature in black ink, appearing to read 'R. Czech', is written over a horizontal line.

Robert M. Czech, Chairperson  
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