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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Assistant General
Supervisor Water (M0228U),
Borough of Park Ridge

Appointment Waiver Request

CSC Docket No. 2017-2392

ISSUED: JUN 26 2017 (SLD)

The Borough of Park Ridge (Park Ridge) requests permission not to make an appointment from the August 22, 2016 certification for Assistant General Supervisor Water (M0228U), Park Ridge.

The record reveals that the appointing authority provisionally appointed Christopher O'Leary, pending open-competitive examination procedures to the title of Assistant General Supervisor Water, effective February 1, 2016. As a result of the provisional appointment, an examination was announced with a closing date of April 18, 2016. Three applicants, including O'Leary were admitted to the examination which was processed as a qualifying examination, *i.e.*, all applicants received the same score with veterans being listed first then non-veterans.¹ The resulting eligible list promulgated on August 18, 2016 and expires on August 17, 2019. 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. On August 22, 2016, the names of all three eligibles were certified from the subject eligible list. The appointing authority returned the certification indicating that no appointments would be made and requested an appointment waiver. Specifically, it asserted that it had only appointed O'Leary to the subject title as its former General Supervisor Water had indicated that he was retiring. Therefore, in order to facilitate a smooth transition, it had appointed O'Leary to the subject title, which it did not normally use. Thereafter, upon the General

¹ The first ranked eligible was a non-veteran resident, the second ranked eligible was a disabled veteran non-resident, and O'Leary, a non-veteran non-resident was the third ranked eligible.

Supervisor Water's retirement, O'Leary was appointed to the General Supervisor Water title.

The appointing authority'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 \$2,048. However, no further response was received.

Agency records reveal that O'Leary was provisionally appointed, pending open-competitive examination procedures, to the title of General Supervisor Water, effective January 7, 2016. An examination for the title of General Supervisor Water was announced with a closing date of April 24, 2017. O'Leary was the only applicant for this examination, which is still pending. Agency records further reveal that there are no employees serving in the subject title with the appointing authority.

A review of the job specification for Assistant General Supervisor Water reveals that an individual in that title assists the general supervisor in the oversight of water/wastewater related programs, activities and staff; supervises staff through subordinate supervisors. A review of the job specification for General Supervisor Water reveals that an individual in that title supervises and coordinates water/wastewater related programs, activities and staff through subordinate supervisors.

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 Assistant General Supervisor Water was generated as a result of the provisional appointment of O'Leary. After a complete certification was issued, the appointing authority appointed notified this agency that O'Leary had been provisionally appointed, pending open competitive examination procedures, to the title of General Supervisor Water. Agency records reveal that there are no employees serving in the subject title with the appointing authority and O'Leary has applied for the examination for General Supervisor Water. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

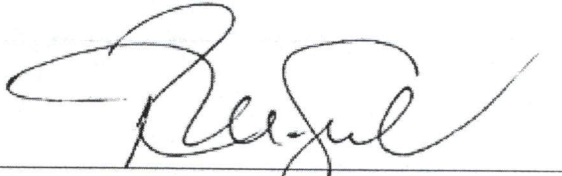
Although the appointment waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the 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. In the instant situation, the appointing authority simply stated that O'Leary was no longer serving in the subject title and that the subject title was one it did not utilize. Thus, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted and selection costs in the amount of \$2,048 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 21ST DAY OF JUNE, 2017



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