



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Franklin Abazie,
Department of Human Services

CSC Docket No. 2017-2168

Administrative Appeal

ISSUED: JUL 31 2017 (WR)

Franklin Abazie, a former Cottage Training Technician, Hunterdon Developmental Center (Hunterdon), Department of Human Services, appeals his resignation in good standing effective February 18, 2015.

In his December 29, 2016 appeal to the Civil Service Commission (Commission), the appellant claims that, as a result of a layoff,¹ he was bumped into a different position where he was subjected to "severe hardship and extreme difficulty" and was consequently forced to resign. Specifically, he argues that in his new position, he was forced to work an "unacceptable scheduled shift," the nature of his duties were very different from those of his former position and he had to drive a long distance to the location of his new position.² In support of his appeal, the appellant submits in part, an October 22, 2014 Reduction in Force Notice.

Agency records indicate that the appellant separated from State service effective February 18, 2015.

CONCLUSION

N.J.A.C. 4A:2-1.1(b) provides that an appeal must be filed within 20 days of notice of the action, decision or situation being appealed. Although the appellant

¹ Effective January 9, 2015, he was bumped from his position as a Human Service Technician at Greystone Psychiatric Hospital to the lateral title of Cottage Training Technician at Hunterdon.

² It is noted that the appellant raises issues about his pension. However, because the Commission has no jurisdiction over pensions, his arguments will not be addressed.

presents substantive arguments that he was forced to resign, the controlling issue in this matter is whether the appellant's appeal of his resignation was timely filed. As noted above, agency records indicate that the appellant separated from State service effective February 18, 2015. However, the appellant's appeal is dated over one year and ten months after the date of his layoff and separation from State service. The purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the almost two year delay in filing the instant appeal unreasonably exceeds that threshold of finality. Thus, it is clear that the appellant's appeal of his resignation is untimely.

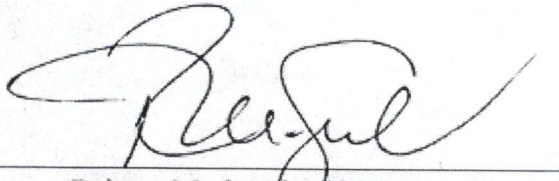
Nor is there any basis in this particular case to extend or to relax the time for appeal. See *N.J.A.C. 4A:1-1.2(c)* (the Commission has the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting his right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing "good cause" in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com'n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 *N.J.* 145 (1982). See e.g., *Matter of Allen*, 262 *N.J. Super.* 438 (App. Div. 1993) (allowing relaxation of the Commission's appeal rules where police officer repeatedly, but unsuccessfully, sought clarification of his employment status). In this case, the appellant has not presented any reason that would excuse the one year and ten month delay in filing his appeal. The Commission notes that the failure to recognize or to explore the legal basis for an appeal, without more, does not constitute good cause to extend or relax the time for appeal under the Commission's rules. See *Savage v. Old Bridge-Sayreville Med. Group*, 134 *N.J.* 241, 248 (1993) (ignorance of the specific basis for legal liability does not operate to extend time to initiate legal action). Accordingly, the appellant's appeal of his resignation in good standing, effective February 18, 2015, is untimely, and he has failed to show good cause to justify relaxing the requirements of *N.J.A.C. 4A:2-1.1(b)*.

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 26th DAY OF JULY, 2017



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