

which is available on the Commission's website. He was sent a copy of his application, showing the email address that he submitted, and a copy of a screenshot showing the email address where the scheduling information was sent, which match.

In response, the appellant claimed that he did not receive a certified return receipt letter from Harrison indicating that he was removed from the list because he did not respond to it as interested in the position. He states that the notice from Harrison states that he was removed from the list because he did not respond to the certification, yet the Commission sent him a notice that he was removed because he did not appear for the PPT. The appellant does not provide a copy of Harrison's notice. He states that there was a change in the rules on the day of the written examination, and that he had to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination under duress, as he could not continue with the process unless he did so.

CONCLUSION

N.J.A.C. 4A:4-2.15(b)2 states that candidates who do not receive a passing score on one part of an examination shall be deemed to have failed the entire examination.

The certification notice received by the appellant indicated that, "Your name has been certified to the Appointing Authority indicated, and you will be considered for appointment." It stated that he should mail his reply to the appointing authority, and it gave the name of the Harrison appointing authority and an address in Harrison. The certification was listed as OL171364, the certification date was November 21, 2017, his position on the certification was 226. The instructions stated that "Failure to follow these instructions will result in the removal of your name from the list." Under that, in bold type, it stated, "You **MUST WRITE** to the appointing authority within 5 business days of the date of this notice or your name will be removed from the list." It went on to state that, "The address is listed below. Be sure to indicate whether or not you are interested in this position; and include your name, the address where you actually live, the certification number, and a daytime telephone number. You may also wish to include an updated resume with your response. Failure to contact the appointing authority in writing; to maintain active interest in immediate employment; or to provide a reason for declining consideration for this position, may automatically result in the removal of your name from the list."

In this matter, the appellant must have responded as interested, as he was not removed from the list for a lack of interest, but was scheduled for the PPT. Thus, the appointing authority was not obligated to send him a certified return receipt letter indicating that he was removed from the list because he responded as

interested in the position. Additionally, the New Jersey Fire Fighter Examination (NJFFE) Post-Written Test Timeline and Candidate Responsibilities document was given to all candidates, and is available on the Commission's web site. This document states that, "If you fail the PPT, do not show up for your scheduled PPT date and time, or do not provide a properly completed and signed medical clearance form, you will be removed from ALL firefighter lists." *See N.J.A.C. 4A:4-2.15(b)2.* The appellant did not appear for the PPT as scheduled.

The appellant states that the Commission "changed the rules" and he was required to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination under duress. In reply, the Commission did not change any rules. This was a two-part examination process, a written-multiple choice portion and a PPT portion. In the past, candidates were given both parts and then lists were certified. The process changed, and candidates are now given the PPT portion once they indicate that they are interested in a position. However, no rules were changed. Additionally, "under duress" means the restriction or confinement of a person, or other threat of harm used to compel a person to do something against his will or judgement, or the use or threatened use of unlawful force. Candidates were asked to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination for just this purpose, to refute any claim that they were NOT notified of the process. If they chose not to accept information regarding the examination process, they could not continue with the examination. This is not a threat of harm as the candidate does not have a right to continue with the examination process simply because they filed an application and paid an application processing fee. *See N.J.A.C. 4A:4-2.17(e).* This fee is not a fee to take the examination, but a fee to process the application, and the Commission is within its jurisdiction to require candidates to sign for receipt of information pertinent to the examination to which they applied.

The appellant has not satisfied his burden of proof in this matter and sufficient cause exists to remove his name from all Fire Fighter lists on which his name appears.

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 17th DAY OF OCTOBER, 2018



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