



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Kevin Maguire,
Fire Fighter (M1537T), Harrison

CSC Docket No. 2019-595

Examination Appeal

ISSUED: December 10, 2018 (RE)

Kevin Maguire, represented by Michael Prigoff, Esq., appeals the removal of his name from the Fire Fighter (M1537T), Harrison eligible list due to his failure to appear for the Physical Performance Test (PPT).

By way of background, the appellant's name appeared on the Fire Fighter (M1537T) eligible list and was certified to Harrison (OL171364) on November 21, 2017. All candidates on the certification were contacted via email and scheduled to take the PPT. The appellant was sent an email on December 15, 2017 and told that he had been scheduled to take the PPT on January 18, 2018, and given the location of the exam, and a medical clearance form. He did not appear for the PPT, and his name was removed from all Fire Fighter lists on which his name appeared. On appeal, the appellant maintains that he did not receive any notification to take the PPT, and was not instructed that he would receive notification by email. He certifies that prior correspondence from the Civil Service Commission (Commission) was by postal mail, he was dealing with a personal family situation when an email was sent, and he cannot recall signing a 2015/2016 Fire Fighter Memo of Understanding regarding the Physical Performance Examination which indicated that he would be notified by email.

CONCLUSION

In reply, a 2015/2016 Fire Fighter Memo of Understanding regarding the Physical Performance Examination was provided to all candidates prior to taking the multiple-choice portion of the examination. Candidates were required to sign

this form in order to continue with the examination process. The appellant signed this form on October 24, 2015. This memo indicated that candidates would be contacted via email and scheduled to take the PPT. Therefore, they were specifically advised that it was their responsibility to keep a current email address on file with this Agency and should check spam folders for emails. Thus, ensuring proper receipt of the electronic notice was the candidate's responsibility. Agency records indicate that an email was sent on December 15, 2017 to the email address provided by the appellant on his application. The email was not returned as "undeliverable" by the computer system, which would have indicated that an invalid email address was used. Prior methods of correspondence and personal circumstances have no bearing on this matter.

Additionally, the New Jersey Fire Fighter Examination (NJFFE) Post-Written Test Timeline and Candidate Responsibilities document was given to all candidates. This document stated 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*. This form is also posted on the Commission's website. The appellant has not satisfied his burden of proof in this matter and sufficient cause exists to remove his name from all of the 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 5th DAY OF DECEMBER, 2018



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