



**STATE OF NEW JERSEY**

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

In the Matter of Alicia Brown,  
Newark School District

CSC Docket Nos. 2018-301 and  
2018-303

Appeal of Removal  
Layoff Rights Appeal

**ISSUED: MARCH 29, 2018 (DASV)**

Alicia Brown, represented by Kevin P. McGovern, Esq., appeals her removal from employment as an Employee Benefits Specialist with the Newark School District, effective July 14, 2017, and her layoff rights.

By way of background, the appointing authority submitted a layoff plan to the Division of Agency Services (Agency Services) to lay off employees, effective Friday, August 14, 2015, in various titles due to a monetary shortfall as a result of a reduced budget. The plan was approved and notices were sent to the affected employees. In a letter dated June 26, 2015, the appointing authority provided the appellant with an individual notice of layoff, stating that she may be laid off from her permanent position of Technical Assistant 3, effective August 14, 2015, and the determination of her rights would be issued by the Civil Service Commission (Commission) prior to her layoff. Agency Services issued the determination, dated July 31, 2015, informing the appellant that her layoff from the title of Technical Assistant 3 had been recorded, and, as displacement rights could not be afforded to her, she would be terminated effective August 14, 2015. The appellant was also notified that, if she disagreed with the determination of her layoff rights or seniority or wished to challenge the good faith of the layoff, she could file a layoff rights appeal or a good faith layoff appeal within 20 days of receipt of the notice. *See N.J.S.A. 11A:8-4 and N.J.A.C. 4A:8-2.6.* A review of agency records reveal that the appellant did not file an appeal with the Commission regarding her layoff.

Thereafter, the appellant was appointed provisionally pending open competitive examination procedures to the title of Employee Benefits Specialist

effective Monday, August 17, 2015. However, the appointing authority discontinued her provisional appointment, and the appellant was separated from employment effective August 21, 2015. Rather than filing an appeal of the discontinuation of her provisional appointment that occurred seven days after she was laid off from her permanent title of Technical Assistant 3, the appellant appealed her termination under the arbitration provisions contained in the collective negotiations agreement (CNA) between her union and the appointing authority.<sup>1</sup> The arbitrator concluded, among other things, that the appellant should be reinstated to her title of Technical Assistant 3 and be suspended for 30 days without pay. It is noted that the arbitrator's decision makes no mention of the appellant's layoff from that title. Rather, the decision states that:

Ms. Brown was properly separated from her position as Employee Benefits Specialist as this was a provisional title and the Employer has the ability to remove an employee from a provisional position for any reason. However, Ms. Brown had rights to her permanent position of Technical Assistant 3. The Employer did not return her to this position.

The appointing authority appealed the decision to the Superior Court of New Jersey, Chancery Division, which, on May 11, 2017, denied the motion to vacate the arbitrator's award, but modified the award reinstating the appellant to the title of Employee Benefits Specialist. The appellant indicated that she actually returned to work on December 19, 2016.

In the meantime, the open competitive examination for Employee Benefits Specialist (M0033U), Newark School District, was announced with a closing date of October 14, 2016 and open to City of Newark residents who possessed the complete open competitive requirements. The appellant did not file for the examination. The examination resulted in a list of six eligibles and expires on March 22, 2020. A certification (OL170327) was issued on March 27, 2017 and is pending. It is noted that the certification was issued against a provisional employee, who appears on the eligible list.

Thereafter, the appellant contacted Agency Services, by letter dated June 21, 2017, requesting an opportunity to be considered for the Employee Benefits Specialist position. She indicated that she was previously denied eligibility to take the promotional examination for the Employee Benefits Specialist (PM0118U),

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<sup>1</sup> The Commission does not have jurisdiction to review the termination of a provisional appointment. See *N.J.S.A.* 11A:2-6 and *N.J.A.C.* 4A:2-2.1. Regardless, the record does not indicate that the appellant challenged her separation with the Commission at that time. In her appeal letter, dated July 26, 2017, the appellant states that her union filed a grievance regarding her termination. She claims that despite her union's "offer to have the matter heard by the [Commission], given [her] underlying title rights in the title of Technical Assistant 3, the [Newark School District] insisted on having the case heard before an arbitrator."

which had a closing date of January 21, 2016, because she was not employed in the announced unit scope as she had been terminated.<sup>2</sup> However, the appellant stated that the status of her employment with the Newark School District was finally resolved by the Superior Court on May 11, 2017, and she was reinstated as an Employee Benefits Specialist effective August 17, 2015.

After the appellant's letter to Agency Services, the appointing authority advised the appellant, by letter dated June 22, 2017, that since she did not appear on the March 27, 2017 certification (OL170327) of the Employee Benefits Specialist (M0033U), Newark School District, eligible list, her provisional appointment was terminated effective July 14, 2017. In letters dated July 19, 2017 and July 26, 2017 and received on July 27, 2017, the appellant filed an appeal with the Commission regarding her removal from employment and her layoff rights, respectively.

In her appeal of her removal, the appellant indicates that the Newark School District failed to issue her Preliminary and Final Notices of Disciplinary Action. In her appeal of her layoff rights, the appellant sets forth that she was "laid off," effective July 14, 2017, and has not received the final notice of her layoff as required by *N.J.A.C. 4A:8-1.6(f)*.<sup>3</sup> She claims that her layoff rights were violated and alleges that the appointing authority circumvented Civil Service rules by asserting that it abolished her permanent position of Technical Assistant 3 by laying her off effective August 14, 2015 and "then purportedly rehired her in the title of Employee Benefits Specialist." In that regard, the appellant contends that she performed the "exact same duties" "for the exact same supervisor" as a Technical Assistant 3 when she returned to work as an Employee Benefits Specialist on August 17, 2015. She emphasizes that as set forth in the arbitrator's decision, the Newark School District "admitted" that her duties were identical. She states that her duties in both titles included counseling employees regarding leaves of absence, medical benefits, and pensions; training new employees; auditing bills; preparing COBRA notices; and handling benefits to tradesman. Thus, the appellant argues that her movement from the Technical Assistant 3 to Employee Benefits Specialist title was actually a lateral title change. As such, pursuant to *N.J.A.C. 4A:4-7.6(b)*, the appellant maintains that she retained her permanent status when her title was laterally changed as the nature of the work, education, and experience requirements of both titles are the same. Moreover, the appellant submits that the Superior Court's determination leads to the same conclusion. The arbitrator reinstated her to her position of Technical Assistant 3 with the intent to return her to permanent employment. Although the Superior Court modified the award to have the appellant reinstated to the Employee Benefits Specialist title, the appellant asserts

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<sup>2</sup> The appellant did not file an appeal of her ineligibility for the Employee Benefits Specialist (PM0118U), Newark School District, promotional examination.

<sup>3</sup> In her July 26, 2017 letter, the appellant indicates that under separate cover, she filed an appeal challenging the good faith of her layoff. However, that appeal was not received. Rather, she filed a removal appeal by way of a Major Disciplinary Appeal Form.

that there is nothing in that order to suggest an “override” of the arbitrator’s intent or that she is holding the Employee Benefits Specialist title provisionally.

Furthermore, the appellant argues that the appointing authority’s actions are premised on the assertion that she is a provisional employee and does not appear on an eligible list. However, she states that Commission records indicate that she was a “New Hire” and not appointed provisionally or laterally transferred. If considered a new hire, then she would become permanent upon completion of a working test period, which in local service, is a period of three months. *See N.J.A.C. 4A:4-5.2(b)1*. She states that she worked in the title of Employee Benefits Specialist from December 19, 2016 (the date she actually returned to employment) through July 14, 2017. Therefore, as of the appointing authority’s June 22, 2017 letter of termination, the appellant claims that she was permanent since she had worked in the title for over six months. It is noted that the appellant submits her Commission record from the County and Municipal Personnel System (CAMPS), which lists that she was a “New Hire,” effective August 17, 2015, and her appointment type was “PAOC” or provisional pending open competitive examination procedures.

Nonetheless, the appellant contends that if she is deemed to have been in a provisional position, she is then entitled to take a make-up promotional examination pursuant to *N.J.A.C. 4A:4-2.9(d)*. This rule provides in part that “[e]mployees who have been removed for disciplinary reasons . . . and are thereafter exonerated of all charges, shall have an opportunity to take . . . make-up examinations for active promotional lists, if the . . . removal resulted in the employee’s non-participation in the promotional examination.” She reiterates that the arbitrator reinstated her to her permanent title of Technical Assistant 3, which was later modified by the Superior Court to Employee Benefits Specialist, and awarded her back pay. Moreover, if she is deemed a provisional employee, the appellant urges the Commission to extend her provisional appointment pursuant to its authority under *N.J.A.C. 4A:4-1.5(b)*, as there is good cause to allow for an extension of the 30-day period after notification by the Chairperson or designee of the Commission that a provisional employee shall be separated from the title if he or she fails to file for or take an examination for his or her title. The appellant notes that she has filed an unfair practice charge with the Public Employment Relations Commission, alleging that the appointing authority’s termination of her appointment is retaliatory. The appellant indicates that while the Commission does not have jurisdiction over that matter, she maintains that the Commission has the power to restore the status quo and allow her return to work until she is able to take an examination. She contends that the appointing authority is clearly attempting to reverse the decision of the arbitrator and the Superior Court, and the Commission should not “become complicit in this shameless attempt to subvert the law and due process.” Further, the appellant asserts that the appointing authority failed to comply with *N.J.A.C. 4A:4-1.9(a)*, which she argues provides for her return to her permanent title of Technical Assistant 3. She also maintains that the

appointing authority did not utilize layoff procedures and provide her with 45 days' notice of her layoff when it did not return her to her permanent title of Technical Assistant 3. See *N.J.A.C.* 4A:4-1.9(f) and *N.J.A.C.* 4A:8-2.6. Finally, the appellant notes that the appointing authority did not engage in pre-layoff actions, meet with the union, or file a layoff plan prior to implementing her layoff on July 14, 2017.

In response, the appointing authority, represented by Andrew L. Smith, Esq., states that the Superior Court matter has been appealed to the Superior Court of New Jersey, Appellate Division, and is pending. The appointing authority notes that it has raised several issues on appeal, namely, that it had "reserved the right to terminate the permanent position of Technical Assistant 3, district-wide;" provided the appellant with a "comparable provisional, at-will, employment as an Employee Benefits Specialist," but she had been brought up on charges of incompetency, inefficiency, failure to perform duties, insubordination, conduct unbecoming of a public employee, and neglect of duty<sup>4</sup> "resulting in just cause for termination;" and terminated the appellant's at-will employment lawfully and the arbitrator lacked standing to adjudicate the matter. In consideration of its pending appeal, the appointing authority requests a stay in this matter, as it asserts that jurisdiction of those issues should remain with the Appellate Division. Moreover, the appointing authority argues that the appellant did not "qualify" for the Employee Benefits Specialist title. Therefore, it has been unable to comply with the Superior Court order to reinstate the appellant as it "would run afoul to [Commission] rules." However, it gave the appellant the option to apply for other positions within the Newark School District. Additionally, the appointing authority notes that the appellant has filed a motion to enforce litigant's rights in Superior Court and is "engaging in clear forum-shopping practice."

In reply, the appellant contends that the appointing authority has not disputed many of her arguments, which she reiterates. Moreover, she states that she is challenging her "July 14, 2017 layoff in this rights appeal" and it is "separate and distinct" from the appointing authority's appeal of the Superior Court's May 11, 2017 order. The appellant also disputes that her reinstatement would "run afoul" of Civil Service law, as she maintains that her movement from Technical Assistant 3 to Employee Benefits Specialist was a lateral transfer and her CAMPS form "has never listed" her as provisional. Additionally, she indicates that she is not "forum shopping," but rather, enforcing her statutory rights. The appellant further contends that a stay of this matter is inappropriate pursuant to *N.J.A.C.* 4A:2-1.2, as there is no clear likelihood of success in the appointing authority's pending appeal before the Appellate Division, there is no danger of irreparable harm as she is simply returning to a position she has worked in for over six months, and the public would not be harmed by processing the within appeal.

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<sup>4</sup> The appointing authority asserted that the appellant left work on August 17, 2015 without permission, having been verbally warned and counseled previously for similar conduct.

## CONCLUSION

Initially, the appointing authority requests a stay in this matter pending its appeal to the Appellate Division. However, there is not a sufficient basis to grant the request or hold this matter in abeyance, as the appeal before the Appellate Division does not concern a matter in which the Commission will render a final decision or is it an appeal of a Commission decision. In this regard, *N.J.A.C.* 4A:2-1.2(a) provides that upon the filing of an appeal, a party to the appeal may petition the Commission for a stay or other relief pending final decision of the matter. Additionally, *N.J.A.C.* 4A:2-1.2(f) provides that following a final administrative decision by the Commission, and upon the filing of an appeal from that decision to the Appellate Division, a party to the appeal may petition the Commission for a stay or other relief pending a decision by the Court. Rather, the determination on appeal before the Appellate Division was rendered by an arbitrator and that decision was modified by the Superior Court by order dated May 11, 2017. Thus, the Appellate Division has jurisdiction regarding the order. It is emphasized that although there are overlapping issues, the central issue in this matter is the question of if the appellant ever lost her permanent status when she was laid off as a Technical Assistant 3 in August 2015. The Commission is the initial forum to determine the propriety of the good faith of an appointing authority's layoff actions and if an impacted employee complied with the statutory and regulatory criteria to perfect an appeal of a layoff.

As noted, the appellant argues that she is permanent, and as such, she is entitled to Civil Service protection regarding her removal or layoff effective July 14, 2017. However, the appellant never challenged her loss of permanent status when she was laid off from her permanent title of Technical Assistant 3 on August 14, 2015. Therefore, as more fully explained below, since she never appealed her layoff, her subsequent appointment as an Employee Benefits Specialist can only be considered provisional. As a provisional appointee, the appellant is not entitled to appeal the discontinuation of that appointment to the Commission. *See N.J.S.A.* 11A:2-6 and *N.J.A.C.* 4A:2-2.1.

On August 14, 2015, the appellant was laid off from her Technical Assistant 3 position, which she indisputably held on a permanent basis. The appointing authority submitted a layoff plan and provided the appellant with an individual notice of layoff, by letter dated June 26, 2015. The appellant was also issued a final notice of layoff by Agency Services on July 31, 2015 and was informed of her appeal rights. The appellant did not file an appeal. In that regard, *N.J.A.C.* 4A:8-2.6(b), provides that good faith and determination of rights appeals shall be filed within 20 days of receipt of the final notice of status required by *N.J.A.C.* 4A:8-1.6(f). *See also N.J.S.A.* 11A:8-4 for good faith layoff appeals. It is noted that the 20-day time period for filing good faith layoff appeals is statutory and cannot be relaxed. Thus,

a challenge to the appellant's layoff on August 14, 2015 at this juncture is untimely and cannot be considered.

The Commission is cognizant of the appellant's argument that she performed the same duties in the Technical Assistant 3 title, which she was laid off from on Friday, August 14, 2015, as she performed when she was provisionally appointed pending open competitive procedures to Employee Benefits Specialist three days later on Monday, August 17, 2015. Moreover, the Commission recognizes that at the time, from the perspective of the appellant, it may have appeared that she was being promoted instead of laid off. However, it cannot be ignored that this agency apprised her on July 31, 2015 that no displacement rights could be afforded to her, she was being laid off from her permanent title of Technical Assistant 3, her employment would be terminated effective August 14, 2015, and she could appeal the good faith of her layoff within 20 days. She failed to do so. Rather, upon her termination from the provisional position a mere seven days after layoff, the appellant, through her union, sought remedies available to her in the CNA, not those she was entitled to under Civil Service law. While the arbitrator may have initially determined that the appellant had "rights" to the Technical Assistant 3 title, the Commission, not the arbitrator or the terms of the CNA, has the jurisdiction to make such determinations in the context of layoff rights or good faith layoff appeals. As such, the arbitrator's findings are not controlling.

Moreover, the appellant's union, the Office of Professional Employees International Union (OPEIU) Local 32, was copied on this agency's June 18, 2015 correspondence approving the layoff plan for August 14, 2015 which advised that individual notices of layoff and displacement rights for impacted individuals would be forthcoming. Further, the appellant conceded in her appeal submission that she "obtained permanent title rights to the position of Technical Assistant 3" and that she "was laid off from that position on Friday, August 14, 2015." Indeed, the appellant could have even timely appealed the good faith of her layoff from Technical Assistant 3 when she was separated from her provisional appointment to Employee Benefits Specialist as it would have been within the statutory 20-day time frame. Thus, although she knew she was laid off and was apprised of her right to appeal the layoff to the Commission, she chose not to exercise her right to do so.<sup>5</sup>

Therefore, notwithstanding the appropriateness of the appointing authority's action of subjecting her to layoff, the appellant's appointment on August 17, 2015 as an Employee Benefits Specialist must be considered provisional pending open competitive examination procedures. *N.J.A.C.* 4A:1-1.3 defines a provisional appointment as employment in the competitive division of the career service pending the appointment of a person from an eligible list. The Employee Benefits Specialist title is designated in the competitive division of the career service. Thus,

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<sup>5</sup> It is noted that agency records reveal other employees impacted by the August 14, 2015 layoff filed appeals of that action with the Commission.

an incumbent must be tested, which the record does not indicate that the appellant had been. Moreover, the appellant no longer was an employee of the Newark School District and did not retain her permanent title of Technical Assistant 3 due to her layoff. As such, her appointment as an Employee Benefits Specialist cannot be considered a promotion, and her provisional appointment cannot be tested via a promotional examination. A promotional examination is open to *permanent* employees who meet the prescribed requirements for admission. *See N.J.A.C. 4A:1-1.3.* Accordingly, the appellant held the Employee Benefits Specialist title provisionally pending open competitive examination procedures.<sup>6</sup>

Nonetheless, the appellant maintains that her title was laterally changed from Technical Assistant 3 to Employee Benefits Specialist and cites *N.J.A.C. 4A:4-7.6(b)* to argue that she retained her permanent status. However, *N.J.A.C. 4A:4-7.6(a)* defines a lateral title change as a movement of a permanent employee from his or her permanent title to an equivalent title within the same organization unit. As previously noted, the appellant no longer retained her permanent status as she was laid off. Therefore, the rules regarding lateral title changes do not apply.

Further, the appellant asserts that she had performed the same duties since 2004, and therefore, the claim that she was holding a provisional title “is a sham.” This assertion raises a question of position classification, *i.e.*, whether the appellant should have actually been serving as a Technical Assistant 3 or Employee Benefits Specialist. However, the record does not indicate that the appellant challenged her position classification *prior* to her layoff as a Technical Assistant 3. As such, her title rights derived from her Technical Assistant 3 title. It is emphasized that matters regarding the classification of positions are not reviewable in the context of a layoff rights appeal, as classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature since duties which may have been performed in the past cannot be reviewed or verified. *See e.g., In the Matter of Kathleen Diringier* (Commissioner of Personnel, decided April 22, 1994); *See also, In the Matter of Emily Graham-Weber* (Commissioner of Personnel, decided June 30, 2000), *aff’d*, Docket No. A-6681-99T5 (App. Div., December 4, 2001) (The Appellate Division noted that “a particular individual’s qualifications, **the functions currently performed by any one individual**, and even an individual’s special abilities to perform other jobs are not a factor in the . . . comparative analysis to determine title rights. Rather, the agency focuses only upon a comparison of the responsibilities and duties of the **affected title** and other designated positions.” Emphasis added.) Therefore, the appellant’s argument that she performed the same duties does not bolster her claim for permanent status.

Moreover, Commission records clearly and accurately indicate that the appellant was a “New Hire,” and she was serving “PAOC,” provisionally pending open competitive examination procedures. It is noted that the only method by

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<sup>6</sup> The arbitrator also indicated that the appellant held the title provisionally.



which an individual can achieve permanent appointment in the competitive division is if the individual applies for and passes an examination, is appointed from an eligible list, and satisfactorily completes a working test period. The steps necessary to perfect a regular appointment include, but are not limited to, this agency's review and approval of a certification disposition proposed by an appointing authority and the employee's completion of a mandatory working test period. *See e.g., In the Matter of Roger Fort* (CSC, decided May 7, 2014). Therefore, the fact that the appellant worked in the title for longer than the required three months for completion of the working test period does not entitle her to a permanent appointment. She was not appointed from an eligible list, and thus, could not have begun her working test period. *See N.J.A.C. 4A:4-5.2(a)* (The working test period shall not include any time served by an employee under provisional, temporary, interim or emergency appointment. The working test period shall begin on the date of regular appointment. *N.J.A.C. 4A:1-1.3* defines regular appointment in the competitive division as employment of a person to fill a position upon examination and certification). Therefore, based on the foregoing, the appellant's separation from employment on July 14, 2017 was not a removal from employment and appealable under *N.J.S.A. 11A:2-6* and *N.J.A.C. 4A:2-2.1*, which provide the right to appeal major discipline, including the termination of an employee, applies only to permanent employees in the career service or a person serving a working test period.

Even if she is deemed provisional, the appellant argues that she is entitled to a promotional make-up examination since she was absent from work following a disciplinary removal. In that regard, *N.J.A.C. 4A:4-2.9(d)* provides in part that "[e]mployees who have been removed for disciplinary reasons . . . and are thereafter exonerated of all charges, shall have an opportunity to take . . . make-up examinations for active promotional lists, if the . . . removal resulted in the employee's non-participation in the promotional examination." In order to participate in a promotional examination, *N.J.A.C. 4A:4-2.6(a)1* requires that applicants to be permanent employees and have one year of *continuous* permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. However, the appellant was not removed from her permanent title as a result of disciplinary action. Rather, she was laid off from her permanent title and accepted a provisional appointment. Accordingly, since the Commission has already found that she did not retain her permanent status, the appellant is not entitled to a make-up for the promotional examination for Employee Benefits Specialist (PM0118U).

Furthermore, the appellant's reliance on *N.J.A.C. 4A:4-1.9(a)* is misplaced. *N.J.A.C. 4A:4-1.9(a)* provides in relevant part that an employee with permanent status in a career service title, who is returned during or at the end of the working test period in another title, or from an appointment under *N.J.A.C. 4A:4-1.5* (provisional appointment) to his or her permanent title, will have rights to a

position in the permanent title in the same organizational unit. However, *N.J.A.C.* 4A:4-1.9(a)1 specifies that the employee must have held the permanent title within current continuous service. In the appellant's case, she no longer held her permanent title of Technical Assistant 3 within current continuous service because of her layoff on August 14, 2015. Thus, the appointing authority had no obligation under this rule to return the appellant to her permanent title of Technical Assistant 3 upon her termination on July 14, 2017. Moreover, *N.J.A.C.* 4A:4-1.9(f) provides that layoff procedures must be utilized when the appointing authority cannot effect the return of a permanent employee. However, for the same reason, this rule does not apply to the appellant, since she was serving provisionally with no underlying permanent status due to her layoff in 2015. As such, layoff procedures need not have been initiated for her separation in 2017. It is emphasized that the appellant was not laid off from a permanent position on July 14, 2017. Rather, her provisional appointment was terminated. Accordingly, she did not possess layoff rights under *N.J.S.A.* 11A:4-8, *et seq.*, and *N.J.A.C.* 4A:8-1.1., *et seq.* Moreover, only permanent employees and employees in their working test period (which as set forth above, the appellant had not begun) may file an appeal regarding their layoff rights. *See N.J.A.C.* 4A:8-2.6(a)2. Therefore, the appellant's layoff rights appeal is denied.

In addition, the appellant contends that for good cause, namely because of the decisions of the arbitrator and the Superior Court, the Commission should allow her to return to work and extend her provisional appointment pursuant to *N.J.A.C.* 4A:4-1.5(b). However, the appointing authority has chosen to terminate the appellant's provisional appointment, which the Commission reiterates it cannot review. Moreover, provisional appointments are made at the discretion of the appointing authority. Further, it is noted that nothing in Civil Service law or rules authorizes the granting of permanent status to provisional employees, especially in the instant matter, where the appellant no longer possessed underlying permanent status as a result of her 2015 layoff. *See e.g., In the Matter of William Boes, et al.* (MSB, decided October 24, 2000). The appellant is also not entitled to a vested property interest in the Employee Benefits Specialist title. For instance, in the context of a promotional examination, the New Jersey Supreme Court has provided guidance on this issue. In *O'Malley v. Department of Energy*, 109 *N.J.* 309 (1987), the Court found that an employee who provisionally occupied a position for more than two years but was returned to his former position when a promotional examination was not given in a timely manner did not have a right to retain his provisional appointment until such time as an examination was given. Further, the Court stated that "the legislative goal of appointments based on merit and fitness is the paramount consideration. With respect to provisional employees, that goal is met by competitive examinations, not by holding a position beyond the time prescribed by the Legislature." As such, the foregoing rule cannot afford the appellant with the remedy she seeks.

**ORDER**

Therefore, it is ordered that the appellant's appeal of removal be dismissed for the Civil Service Commission's lack of jurisdiction, and her layoff rights appeal be denied.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 27<sup>TH</sup> DAY OF MARCH, 2018



Deirdre L. Webster Cobb  
Acting Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals  
and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Alicia Brown  
Kevin P. McGovern, Esq.  
Larisa Shambaugh  
Andrew L. Smith, Esq.  
Kelly Glenn  
Records Center