



STATE OF NEW JERSEY

In the Matter of Paul Creary, Jr.,
Police Officer (S9999U), South
Orange

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

CSC Docket No. 2018-1741

List Removal

ISSUED: APRIL 6, 2018 (JET)

Paul Creary, Jr, appeals the removal of his name from the Police Officer (S9999U), South Orange, eligible list for failure to maintain residency.

The appellant took the open competitive examination for Police Officer (S9999U), South Orange, achieved a passing score, and was ranked on the subsequent eligible list. Applicants were required to maintain continuous residency in South Orange up to the date of appointment. *See N.J.A.C. 4A:4-2.11(e)1.* The appellant's name was certified to the appointing authority on September 29, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant's name based on his failure to maintain residency in South Orange from the closing date of the examination (August 31, 2016) to the date of appointment. Specifically, the appointing authority's background investigation and records from the New Jersey Voter Information Home Page revealed that the appellant lives in Orange Township.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he has continuously lived in South Orange since the August 31, 2016 closing date of the examination. Specifically, the appellant explains that when he submitted his application for the subject position at the South Orange Police Station, he was informed that his apartment complex was located in Orange Township. The appellant adds that he was not advised to apply for a position in Orange Township, but rather, he was fingerprinted and the appointing authority accepted his application. In support of the claim that he lives in South Orange, the

appellant provides a copy of his driver's license issued May 15, 2017, and a copy of his reissued driver's license issued January 20, 2018, which indicate a South Orange address.

Despite being provided the opportunity, the appointing authority did not provide a response.

CONCLUSION

N.J.A.C. 4A:4-2.11(c) provides in pertinent part that where residence requirements have been established in local service, residence means a single legal residence. The following standards shall be used in determining local legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner (see section 4 of P.L. 2003, c.246), a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by children living with the individual is the same as the claimed residence.

See e.g., In the Matter of Roslyn L. Lightfoot (MSB, decided January 12, 1993) (Use of a residence for purposes of employment need and convenience does not make it a primary legal residence when there is a second residence for which there is a greater degree of permanence and attachment). *See also, In the Matter of James W. Beadling* (MSB, decided October 4, 2006). Moreover, *N.J.A.C.* 4A:4-2.11(e)1 states that unless otherwise specified, residency requirements shall be met by the

announced closing date for the examination. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. Additionally, *N.J.A.C.* 4A:4-4.7(a)7 provides that discontinuance of an eligible's residence in the jurisdiction to which an examination was limited or for a title for which continuous residence is required is a cause for disqualification from an eligible list. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In the instant matter, the appellant asserts that his primary residence is located in South Orange and he has continuously lived there since the August 31, 2016 closing date. Considering the factors set forth in *N.J.A.C.* 4A:4-2.11(c), the documentation submitted by the appellant on appeal is insufficient to show that he has maintained continuous residency in South Orange since August 2016. The information submitted from the appellant on appeal, in and of itself, does not substantially refute that he did not live in Orange Township after the closing date. In this regard, the appellant's driver's license was issued on May 15, 2017, and it was reissued on January 20, 2018, which is after the August 2016 closing date of the subject announcement. Such information does not establish that he maintained continuous residency in South Orange after the August 2016 closing date. Moreover, a search of the appellant's address indicates that it is located on the City of Orange Township, not South Orange. In this regard, it is the appellant's responsibility to know the actual location of his residence, regardless of postal address or zip code. As such, the appellant has not established evidence to show that he maintained continuous residency in South Orange after the closing date.

Therefore, under these circumstances, the appointing authority has presented a sufficient basis to remove the appellant's name from the Police Officer (S9999U), South Orange, eligible list due to his failure to meet his burden of proof in this matter.

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 4th DAY OF APRIL, 2018



Deidre L. Webster Cobb
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Paul Creary, Jr.
Barry R. Lewis, Jr.
Kelly Glenn