



STATE OF NEW JERSEY

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

In the Matter of Kimberly Gonzales,
Borough of Highlands

CSC Docket No. 2018-2872

Intergovernmental Transfer

ISSUED: MAY 25, 2018 (DASV)

Kimberly Gonzales, a Senior Account Clerk, appeals the denial of her intergovernmental transfer from the Borough of Keansburg (Keansburg) to the Borough of Highlands (Highlands).

By way of background, agency records indicate that Keansburg permanently appointed Gonzales as a Senior Account Clerk effective April 6, 2017. On February 2, 2018, Gonzales resigned her position as a Senior Account Clerk with Keansburg and began employment with Highlands in the same title.¹ The two appointing authorities entered into an Intergovernmental Transfer Agreement, which indicates that Keansburg approved Gonzales' separation, effective February 1, 2018, and Highlands approved her transfer on the same date. The Borough Manager of Keansburg and the Highlands Mayor signed the agreement on January 30, 2018 and January 31, 2018 respectively. The Division of Agency Services (Agency

¹ Gonzales' record in County and Municipal Personnel System reflects that she had been provisionally appointed pending open competitive examination procedures as a Purchasing Agent with Highlands effective April 16, 2014. However, she was found ineligible for the Purchasing Agent (M0218T), Highlands, examination. Another examination for Purchasing Agent (M0328U), Highlands, was announced, but Gonzales did not file for the examination. On March 31, 2017, the eligible lists (M0218T and M0328U) were certified against Gonzales' provisional position. However, the two eligibles on the certification who appeared on the eligible lists, respectively, were removed for lack of the required license and failure to respond to the Notice of Certification. Thus, Gonzales remained in the position after the certification disposition.

Services) received the agreement on February 27, 2018. Agency Services denied the intergovernmental transfer since Gonzales had resigned her permanent position with Keansburg on February 2, 2018, prior to obtaining approval for the intergovernmental transfer. It is noted that there are no existing regular reemployment or special reemployment lists for Senior Account Clerk in Highlands.

On appeal, Gonzales indicates that Highlands had the Senior Account Clerk position listed to begin on February 2, 2018, and Keansburg replaced her the same day. She contends that the forms were submitted to Agency Services, “but seemed to [have] been misplaced.” Gonzales contends that both appointing authorities moved ahead with the transfer without realizing they should have received the approval first. Therefore, she requests that the denial of her intergovernmental transfer be reconsidered.

CONCLUSION

N.J.A.C. 4A:4-7.1A(b) provides that an intergovernmental transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction and the affected employee, and the approval of this agency. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

The purpose of the intergovernmental transfer program is to promote more efficient public service by allowing State and local jurisdictions to obtain the services of talented and experienced individuals from other jurisdictions within the Civil Service system. However, absent a compelling emergent situation, such as public safety, accepting and employing interested applicants prior to formal approval by this agency could seriously circumvent the Civil Service system and frustrate the legislative goals of appointments based on merit and fitness as demonstrated in a competitive testing situation. In this case, due to an inexplicable reason, Agency Services did not receive the Intergovernmental Transfer Agreement until February 27, 2018. Thus, the transfer was never timely approved by this agency as required. However, a review of the Intergovernmental Transfer Agreement confirms that Keansburg and Highlands agreed to transfer Gonzales and signed the agreement prior to the effective date. Moreover, given the fact that Gonzales is serving in the same title for Highlands as she was for Keansburg and no regular or special reemployment lists for the title are active for Highlands, good cause exists to permit her permanent transfer to Highlands effective February 2 2018. *See In the Matter of Nicholas Rizzitello, Police Officer, Newark* (CSC, decided June 9, 2010) (Commission permitted the retroactive intergovernmental transfer of a Police Officer who transferred two and a half years prior to Commission’s formal review and approval). *See also, In the Matter of Kenneth Dowzycki* (MSB, decided December 1, 2004).

ORDER

Therefore, it is ordered that this request be granted and the personnel records of Kimberly Gonzales reflect her intergovernmental transfer from the Borough of Keansburg to the Borough of Highlands effective February 2, 2018.

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 23RD DAY OF MAY, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence:

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

c: Kimberly Gonzales
The Honorable Richard O'Neil
Raymond B. O'Hare
Kelly Glenn
Records Center