



STATE OF NEW JERSEY

DECISION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Tia Bragg
Vineland Developmental Center,
Department of Human Services

CSC Docket No. 2018-2103

Reconsideration

ISSUED: May 25, 2018 (BW)

Tia Bragg, a former Human Services Assistant with Vineland Developmental Center, Department of Human Services, petitions the Civil Service Commission (Commission) for reconsideration of the attached administrative decision, rendered on January 11, 2018, in which the Director of the Division of Appeals and Regulatory Affairs denied her request for a hearing with respect to her removal.

By way of background, in an November 28, 2017 Final Notice of Disciplinary Action (FNDA), the petitioner was removed, effective September 11, 2017, on charges of violation of a rule, regulation, policy, procedure, order or administrative decision, insubordination, intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, and disrespect or use of insulting or abusive language. Specifically, the appointing authority asserted that the petitioner conducted herself in an insubordinate and unprofessional manner towards her supervisors and neglected to provide appropriate care to clients under her care. In this regard, the petitioner was seen by the Head Cottage Training Supervisor talking loudly on her cell phone while having consumers in her care, and not performing her assigned tasks of monitoring and interacting with the consumers.

The record indicates that the petitioner's FNDA was sent by certified mail on November 29, 2017 to her address on file. Ultimately, the mail was returned to the appointing authority on December 4, 2017 as the forwarding time for her mail had expired. This notice returning that mailing indicated the petitioner's correct address on the label. No attempt was made by the appointing authority to resend the FNDA to the correct address or to contact the petitioner by phone. The appointing authority has

provided proof that both the certified and regular mail was returned to it. As the certified mail was returned on December 4, 2017, and the petitioner's appeal was postmarked January 3, 2018, her request for a hearing was denied.

In her request for reconsideration, the petitioner claims she only became aware of her termination on January 3, 2018, when she saw on the State of New Jersey's website a message stating she was no longer employed as of December 8, 2017. The petitioner then went to Vineland Developmental Center on January 3, 2018 and spoke to the Employee Relations Coordinator. It is unclear by the record if petitioner was given her FNDA on this date, but she was advised of the termination. By letter postmarked January 3, 2018, the same day she was advised of the termination, the petitioner submitted an appeal to the Commission. She argues that she should be given a new hearing and be reinstated.

Further, the petitioner states that in October 2016 she gave her change of address form to Ms. Marylann Colon-Zamot in Human Resources who also signed the book. She has provided documents sent to her with her correct address from Vineland Developmental Center dating back to as far as March 1, 2017.

In response, the appointing authority states that appellant did not change her address. It references that on October 17, 2017, a letter was sent to the address on file regarding her departmental hearing and petitioner signed for the letter and appeared for the hearing making no mention of the change of address. It also indicates that petitioner went to Human Resources on January 3, 2018 to confirm her address which was listed as her old address. Petitioner requested another change of address.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding, which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. A review of the record in the instant matter reveals that reconsideration is justified.

N.J.S.A. 11A:2-15 provides that appeals from major disciplinary matters shall be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. This 20-day time limitation is jurisdictional and cannot be relaxed or waived. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); See also, *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978).

N.J.A.C. 4A:2-2.8(b) states that “If the appointing authority fails to provide the employee with a Final Notice of Disciplinary Action, an appeal may be made directly to the Commission within a reasonable time”.

In the matter at hand, the appellant claims that she did not receive the FNDA. The appointing authority confirms that both the certified and regular mail was returned unable to forward. While it is an employee's responsibility to maintain a current address with his or her employer, in this case, it is clear that the appointing authority had the petitioner's current address. In this regard, the petitioner has provided documents with her proper current address from the appointing authority dated months before the issuance of the FNDA. Further, while the Commission usually will deny a hearing where it is shown that an employee has not appealed within 20 days of certified mail being returned, to do so in this case, under the circumstances outlined above, would be unjust. Further, the petitioner promptly appealed after she received the actual notice of her removal. Accordingly, her petition is granted.

ORDER

Therefore, it is ordered that this petition for reconsideration be granted and the matter be referred to the Office of Administrative Law for a hearing.

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
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Tia Bragg
Bernadette Musiwa
Kelly Glenn
Records Center
Beth Wood w/file