



STATE OF NEW JERSEY

In the Matter of Nassim Wahbi,
Police Officer (S9999U),
South Orange

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

CSC Docket No. 2018-1085

List Removal Appeal

ISSUED: MAY 25, 2018 (JET)

Nassim Wahbi 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), achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified to the appointing authority on March 31, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of failure to maintain residency. Specifically, the appointing authority asserted that its background investigation revealed that the appellant lived with his wife in Jackson. Additionally, the appellant's wife reported to the background investigator that the appellant moved to his brother's address in South Orange in March 2017 after he found out that he was eligible to be appointed as a Police Officer in that jurisdiction.

On appeal, the appellant asserts, among other things, that he has been living in South Orange since August 2015. The appellant states that, as a result of his wife's work situation, she is not living with him in South Orange at this time. However, he plans to move into an apartment in South Orange with his wife at some point in the future. In support, the appellant submits a letter from his wife, Keriann Wahbi, who states that she lives in Jackson and works in Howell, and she plans to find an apartment in South Orange in the future. Moreover, she states that the appellant lives in South Orange. Additionally, the appellant submits copies of his driver's license, vehicle registration, checking account statements,

earnings statements, and credit card statements that reflect a South Orange address.¹

Despite being provided with the opportunity, the appointing authority has not provided a response.

CONCLUSION

N.J.A.C. 4A:4-2.11(c) provides that residency requirements shall be met by the announced closing date for an examination, and *N.J.A.C.* 4A:4-2.11(c)1 provides “[w]hen 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.” *N.J.A.C.* 4A:4-2.11(b) provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining 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, 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.*

¹ Only one of these documents, a pay stub, is dated prior to October 2016.

Beadling (MSB, decided October 4, 2006). Further, *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. *N.J.A.C.* 4A:4-6.1(a)9 allows the removal of an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

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. He provides copies of his bank and credit card statements, driver's license, and vehicle registration in support of his claims. *N.J.A.C.* 4A:4-2.11(e)1 requires the appellant to maintain continuous residence from August 31, 2016 up to and including the date of appointment. Residence means a single legal residence. See *N.J.A.C.* 4A:4-2.11(c). 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 does not live in Jackson with his wife, or at least lived there at some point prior to or after the August 2016 closing date. In this regard, the appellant has not provided any substantive information, such as a copy of his lease and tax returns, to refute the appointing authority's claims. Although the appellant's wife now states in this matter that the appellant lives in South Orange, she has not provided any substantive evidence in support of her claim that he does not live with her in Jackson. Moreover, the appellant has not provided any substantive evidence to refute the appointing authority's contention that his wife admitted to the background investigator that the appellant moved in with his brother in South Orange in March 2017. As such, the appellant's argument that his wife lives separately from him in Jackson is not persuasive. Accordingly, since the record does not reflect any evidence to show that he maintained continuous residency in South Orange, the appellant has not met 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 23rd DAY OF MAY, 2018



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