



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Wayne Bramonte,
City of Trenton

Request for Reconsideration

CSC Docket No. 2019-307

ISSUED: SEPTEMBER 7, 2018 (BW)

Wayne Bramonte, a Maintenance Repairer with the City of Trenton, represented by Ramona S. Thomas, President, AFSCME Local 2286, petitions the Civil Service Commission (Commission) for reconsideration of the attached decision, rendered on June 22, 2018, in which the Director of the Division of Appeals and Regulatory Affairs denied his request for a hearing with respect to his removal.

By way of background, a Final Notice of Disciplinary Action (FNDA), dated March 22, 2018, was personally served on March 23, 2018, removing the petitioner for chronic or excessive absenteeism or lateness. The petitioner filed an appeal to the Commission, and his letter of appeal was hand delivered on April 13, 2018. On June 22, 2018, the Director determined that the petitioner's appeal was beyond the 20-day time period to file an appeal and the petitioner was denied a hearing. See *N.J.S.A. 11A:2-15*.

In his request for reconsideration, the petitioner does not dispute the date that he was served the FNDA or the date he delivered his appeal. Rather, he argues that the Director's calculation of his 20-day appeal period was in error.

In this regard, *New Jersey Court Rules 1:3-1* which states, in pertinent part: "In computing any period of time fixed by rule or court order, the date of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is

neither a Saturday, Sunday nor legal holiday.” Petitioner argues that the Director used the day he was served, March 23, 2018 in the calculation and was, therefore in error when he concluded that the petitioner was one day beyond the 20-day time period to appeal.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. 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.

N.J.S.A. 11A:2-15 and *N.J.A.C.* 4A:2-2.8(a) provide that an appeal from an adverse action specified in *N.J.S.A.* 11A:2-6a(4) must be filed within 20 days of receipt of the notice by the employee. 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).

The petitioner’s argument that the Director improperly calculated the 20-day period is incorrect. The Director did not utilize the date the appeal was filed in his calculation. Rather, he began the period on March 24, 2018, which includes eight days in March as well as April 1 through 12. Since the petitioner’s appeal was received on Friday, April 13, it was not timely filed.

Therefore, the petitioner has not demonstrated that a material error has occurred nor presented new evidence which would change the outcome of his case. Accordingly, the Commission finds no grounds on which to grant reconsideration of its prior decision.

ORDER

Therefore, it is ordered that this request for reconsideration 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 5TH DAY OF SEPTEMBER, 2018

Deirdre' L. Webster Cobb

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

Attachment

c: Ramona S. Thomas
Wayne Bramonte
Terry K. McEwen
Kelly Glenn
Records Center



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of
Wayne Bramonte
City of Trenton
Police Department

CSC DKT. NO. 2018-2967

Hearing Denied

ISSUED:

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BW

The Civil Service Commission considered the request for a hearing concerning Wayne Bramonte, from his appeal of removal, effective March 23, 2018, from his position of Maintenance Repairer, City of Trenton Police Department and made the following findings of fact:

1. The Final Notice of Disciplinary Action was personally served on March 23, 2018.
2. The letter of appeal was hand delivered on April 13, 2018.

Since the appeal in this matter was not perfected within 20 days of receipt of the Final Notice of Disciplinary Action, the request for a hearing was denied. It is noted that pursuant to *N.J.A.C. 4A:2-2.8(a)*, receipt of the Final Notice on a different date by the employee's attorney or representative shall not affect the appeal period.

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

RE: Wayne Bramonte

DECISION RENDERED BY THE
DIRECTOR,
DIVISION OF APPEALS
AND REGULATORY AFFAIRS
ON 6/21/18



CHRISTOPHER S. MYERS
DIRECTOR

Inquiries
And
Correspondence

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c: Wayne Bramonte
Ramona S. Thomas President AFSCME Local 2286
Agency Services
Pensions
City of Trenton Police Department