



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ginger Ferrell
New Lisbon Developmental Center,
Department of Human Services

CSC Docket No. 2017-417

Reconsideration

ISSUED: SEPTEMBER 7, 2018 (BW)

Ginger Ferrell, a former Cottage Training Technician at New Lisbon Developmental Center, Department of Human Services (DHS), petitions the Civil Service Commission (Commission) for reconsideration of its dismissal of the appeal of her removal based on her failure to appear at her scheduled hearing.

The pertinent facts of this matter are as follows: Petitioner was removed from her position, effective March 4, 2016, on charges of falsification, notoriously disgraceful conduct, threatening, intimidating, coercing or interfering with fellow employees on State property, violation of rule, regulation, policy, procedure order or administrative decision, conduct unbecoming a public employee and other sufficient cause. Petitioner appealed her removal to the Commission which transmitted the matter to the Office of Administrative Law (OAL) on August 9, 2016. The OAL scheduled the matter for a hearing on April 25, 2018. On this date, petitioner did not appear for the hearing. Based on this absence, the Administrative Law Judge noted that petitioner failed to appear, and the matter was returned to the Commission for a final decision. The Commission dismissed petitioner's appeal on May 23, 2018.

In support of petitioner's request for reconsideration, she states that the reason she did not appear was due to going the wrong way on the highway and, therefore, she could not find the location of the hearing. She states that she

attempted to call the Deputy Attorney General (DAG) representing DHS in this matter and was told he was not available.

In response, DHS, represented by Christopher Weber, DAG, first argues that the matter should not be reconsidered due to an untimely appeal. Secondly, it states that petitioner appeared at a previous hearing on February 16, 2018 in a timely matter. Thereafter, an unscheduled conference call took place where the petitioner informed the Judge that she wished to proceed *pro se*. The Judge made it abundantly clear to petitioner that she bore the responsibility of prosecuting the case and representing herself. The petitioner understood and agreed. Further, it contends that petitioner called to confirm her hearing date on April 24, 2018. The petitioner should have called the OAL and not the DAG to inform it that she was lost. DHS tried calling petitioner at the number on file and reached a family member who stated that petitioner left that morning. He gave DHS another number to reach petitioner, which went directly to voice mail. The DHS maintains that petitioner's submissions do not satisfy the standard required for the Commission to reconsider her 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.

Initially, the petitioner's request is timely. In this regard, her petition was received on May 10, 2018 which is within the 13 day time frame from the April 30, 2018 notice of failure to appear. See *N.J.A.C.* 1:1-3.3(b).

In the instant case, it is clear that petitioner has not sustained her burden of proof. She states that she got lost going to the hearing. However, she appeared on time to a previous hearing. Additionally, there is no evidence that petitioner attempted to notify the OAL of her situation even though she has contacted them on at least two prior occasions for telephone conferences. Instead, she contacted the DAG for DHS who was not available. Accordingly, given that petitioner has not presented the Commission with any substantive evidence to excuse her absence, her appeal is dismissed based on her failure to appear at the April 25, 2018 hearing.

ORDER

Therefore, it is ordered that Petitioner's petition 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



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