



STATE OF NEW JERSEY

In the Matter of Nikko Vrisiotis,
Police Officer (S9999U), Jersey City

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

CSC Docket No. 2018-2613

List Removal Appeal

ISSUED: SEPTEMBER 7, 2018 (JET)

Nikko Vrisiotis, represented by Robert K. Chewning, Esq., appeals the removal of his name from the Police Officer (S9999U), Jersey City, eligible list on the basis of 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 on July 13, 2017 (OL170832). 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 the appellant's address is 29 Irving Avenue, Englewood Cliffs which is outside of the jurisdiction's residency requirements. It is noted that applicants were required to maintain continuous residency from the August 31, 2016 closing date of the announcement up to the date of appointment. *See N.J.A.C. 4A:4-2.11(c)1.*

On appeal, the appellant maintains that he is a resident of Jersey City and he has resided there since July 2015. The appellant asserts that he provided his driver's abstract to this agency which indicates that he moved to Jersey City prior to the closing date, and he has been voting and receiving mail in Jersey City. In addition, the appellant asserts that he was employed by Englewood Cliffs from May 2012 through November 2017, and at the time he started working in that jurisdiction, he was living at 29 Irving Avenue, Englewood Cliffs. The appellant adds that, when he moved to Jersey City in July 2015, he inadvertently failed to inform Englewood Cliffs that his address had changed, and as a result, the

background investigation erroneously listed that he lived in Englewood Cliffs. Further, the appellant asserts that 29 Irving Avenue is the only address his family tax preparer had available to him at the time his income taxes were prepared, and the appellant did not update him regarding his Jersey City address. However, the appellant states that his 2016 tax return reflects a Jersey City address. In support, the appellant provides certifications from himself, Georgia Vrisiotis, Konstantina Koliopoulos, and George Sengros which indicate that he lives in Jersey City. He also provides a copy of his voter profile form, a copy of his yearly lease agreement dated July 31, 2017, and copies of various tax documents including W-2s, a 1099, and a 1098-T form indicating a Jersey City address.

In response, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, maintains that the appellant's name should be removed for failure to maintain residency in Jersey City. The appointing authority states that the address reflected on the appellant's tax records and in a police report reveals that he does not live in Jersey City. The appointing authority explains that, in March 2017, approximately seven months after the closing date, a tax preparer listed the address on the appellant's tax returns as 29 Irving Avenue, Englewood Cliffs.¹ Additionally, the appointing authority contends that the 2016 W-2 forms issued by Englewood Cliffs, issued nearly two years after the appellant purportedly moved to Jersey City, indicates that his address is 29 Irving Avenue in Englewood Cliffs. As such, the appointing authority contends that for the appellant's contention to be true, he would have had to not inform Englewood Cliffs that he was residing in Jersey City. Accordingly, the appointing authority maintains that the appellant has not provided any substantive evidence to show that he has been residing in Jersey City since 2015. Moreover, while the appointing authority acknowledges that the appellant has been residing in Jersey City since November 9, 2017, such information fails to show that he maintained continuous residency in Jersey City since the August 31, 2016 closing date.

In support, the appointing authority provides a November 3, 2016 police report from Englewood Cliffs, a W-2 form issued by Englewood Cliffs, and a 2016 tax return which reflect the appellant's address as 29 Irving Avenue, Englewood Cliffs. It also submits a March 14, 2017 letter signed by the appellant's tax preparer indicating that that appellant's tax returns were electronically filed and his address as 29 Irving Avenue, Englewood Cliffs. It also submits an auto insurance card dated April 4, 2017 through October 4, 2017 indicating an address of 29 Irving Avenue, Englewood Cliffs. Moreover, it submits the appellant's lease dated July 31, 2017, which indicates an address of 57 Hague Street, Jersey City.

¹ The appointing authority states that the appellant's tax returns were electronically filed and the 2016 federal 1040 form which the preparer signed states – [d]eclaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge.

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. 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.

In the instant matter, the appellant has not established by a preponderance of the evidence that he was residing in Jersey City. 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 Jersey City since August 2016. Although the appellant submits various certifications stating that he continuously resided in Jersey City since 2015, the documentation in the record effectively rebuts this assertion. *N.J.S.A. 39:3-36* requires a motorist who moves within New Jersey to report an address change within one week. The appellant's Motor Vehicle Address Change History clearly indicates that he did not change his address from an Englewood Cliffs address to a Jersey City address until August 29, 2017. Since the appellant claims to have been living in Jersey City since 2015, it is clear that he did not update the Motor Vehicle Address Change Form to reflect a Jersey City address within one week as required. As such, the address was not changed until after the August 31, 2016 closing date of the announcement. Based on this fact alone, it would have been reasonable for the appointing authority to conclude that the appellant did not continuously reside in Jersey City. Thus, it was appropriate for the appointing authority to remove the appellant from the eligible list on that basis. *See In the Matter of Patrick O'Hara, Fire Fighter (M2377H), Newark* (CSC, decided January 13, 2010).

Additionally, the tax returns and tax documentation in the record, including his W-2s, 1099 and 1098-T forms, do not show that the appellant continuously lived in Jersey City after the August 31, 2016 closing date. Although the appellant states that his tax preparer erroneously listed the Englewood Cliffs address on his most recent tax returns, such information does not overcome that his tax documentation evidences that he does not maintain residency in Jersey City. Further, the lease in the record does not evidence that he maintained a primary legal residency in Jersey City as of the August 31, 2016 closing date. In this regard, the lease for the 57 Hague Street address is dated July 31, 2017, which is nearly a year after the August 31, 2016 closing date of the announcement. The appellant's motor vehicle registration and driver's license, as well as his automobile insurance card, also do not indicate that he resided in Jersey City by the August 31, 2016 closing date of the examination.

Therefore, the appointing authority has presented a sufficient basis to remove the appellant's name from the Police Officer (S9999U), Jersey City eligible list for failure to meet the residency requirement and the appellant has failed to meet 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 5th DAY OF SEPTEMBER, 2018



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