

## STATE OF NEW JERSEY

In the Matter of Jason Yocovelli, Heavy Equipment Operator (M0271A), Fort Lee

CSC Docket No. 2020-855

## FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

**Examination Appeal** 

**ISSUED:** October 29, 2019 (RE)

Jason Yocovelli appeals the determination of the Division of Agency Services (Agency Services) which found that he did not meet the minimum requirements in experience for the open-competitive examination for Heavy Equipment Operator (M0271A), Fort Lee.

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The subject examination had a closing date of March 7, 2019 and was open to residents of Fort Lee Borough (Fort Lee) and Bergen County who met the announced requirements. These requirements included two years of experience in the operation and maintenance of construction and maintenance equipment. The appellant was found to be ineligible based on a lack of experience. Three candidates appear on the eligible list, which has been certified once, but no appointments have yet been made. The appellant is one of three provisional employees in the subject title, and the other two are on the list. After those appointments, it is anticipated that the list will be incomplete.

On his application the appellant listed one position, Truck Driver, from February 2001 to March 2019. He described his duties as "driving CDL required trucks." As this did not match the experience requirement, he was found to be lacking two years of experience. Official records indicate that the appellant was a provisional Heavy Equipment Operator from January 2019 to March 2019, a Truck Driver from December 2013 to December 2019, and a Laborer 1 from December 2001 to December 2013. He remains in his provisional position.

On appeal, the appellant states he has operated all of the heavy equipment utilized by the appointing authority. In support, Fort Lee states that Yocovelli has the knowledge, skills and abilities to do the duties of the title under test. It states that Yocovelli regularly receives differential pay for out of title work handling complex and demanding assignments as a Heavy Equipment Operator. It indicates that he worked from January 2017 to December 2018 operating machinery and maintaining equipment.

## CONCLUSION

*N.J.A.C.* 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the open competitive examination announcement by the closing date. *N.J.A.C.* 4A:4-2.1(f) provides that an application may only be amended prior to the announced closing date. *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission may relax a rule for good cause in particular situations, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, Agency Services correctly found that the appellant was ineligible for the subject examination. The appellant did not properly complete his application and list each position separately with separate duties. Nonetheless, the appointing authority indicates that the appellant has performed the required duties for at least two years. The list will be incomplete after the certification is returned, and the appellant continues to serve provisionally in the title under test. Based on the circumstances presented, good cause has been established to accept the totality of the appellant's experience and relax the provisions of *N.J.A.C.* 4A:4-2.1(f) and *N.J.A.C.* 4A:4-2.3(b) to accept the appellant's provisional experience and out-of-title work and admit him to the examination for prospective appointment only. The appellant is cautioned to properly complete all future applications.

## **ORDER**

Therefore, it is ordered that this appeal be granted, and the appellant's application be processed for prospective appointment only.

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 OCTOBER, 2019

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