



STATE OF NEW JERSEY

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

In the Matter of Jason Rodriguez,
Fire Fighter (M1863W), Paterson

CSC Docket No. 2020-811

Examination Appeal

ISSUED: November 20, 2019 (RE)

Jason Rodriguez, represented by Ben Weather, Esq., appeals the removal of his name from the Fire Fighter (M1863W), Paterson eligible list due to his failure to appear for the Physical Performance Test (PPT).

By way of background, the appellant's name appeared on the Fire Fighter (M1863W) eligible list and was certified to Paterson (OL190437) on April 16, 2019. All candidates on the certification were contacted via email and scheduled to take the PPT. The appellant was sent an email on May 30, 2019 and told that he had been scheduled to take the PPT on June 14, 2019, and given the location of the exam, and a medical clearance form. He did not appear for the PPT, and his name was removed from all Fire Fighter lists on which his name appeared. On appeal, the appellant maintains that he did not receive any notification by email to take the PPT.

Staff indicated to the appellant that he had signed a Fire Fighter Memo of Understanding regarding the Physical Performance Examination. This memo indicated that candidates would be contacted via email and scheduled to take the PPT, and point 1 indicated that candidates should check spam folders for emails. He was asked to provide an affidavit or signed notarized statement indicating when he checked his spam mail for notification. He replied with a summary of his achievements and desire to have a position in the subject title.

CONCLUSION

A Fire Fighter Memo of Understanding regarding the Physical Performance Examination was provided to all candidates prior to taking the multiple-choice portion of the examination. Candidates were required to sign this form in order to continue with the examination process. The appellant signed this form, which indicated that candidates would be contacted via email and scheduled to take the PPT. Therefore, they were specifically advised that it was their responsibility to keep a current email address on file with this Agency and should check spam folders for emails. Thus, ensuring proper receipt of the electronic notice was the candidate's responsibility. Agency records confirm that an email was sent on May 30, 2019 to the email address provided by the appellant on his application. The email was not returned as "undeliverable" by the computer system, which would have indicated that an invalid email address was used.

Additionally, the New Jersey Fire Fighter Examination (NJFFE) Post-Written Test Timeline and Candidate Responsibilities document was given to all candidates. This document stated that, "If you fail the PPT, do not show up for your scheduled PPT date and time, or do not provide a properly completed and signed medical clearance form, you will be removed from **ALL** firefighter lists." *See N.J.A.C. 4A:4-2.15(b)2.* This form is also posted on the Commission's website. It was each candidate's responsibility to check their email, including spam folders, for the notification. The appellant has not satisfied his burden of proof in this matter and sufficient cause exists to remove his name from all of the Fire Fighter lists on which his name appears.

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 20th DAY OF NOVEMBER, 2019



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

c: Jason Rodriguez
Ben Weather, Esq.
Kelly Glenn