



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Supervising  
Mechanic (M0069A), Borough of Fort  
Lee

Appointment Waiver

CSC Docket No. 2020-1174

ISSUED: DECEMBER 5, 2019 (BW)

The Borough of Fort Lee requests permission not to make an appointment from the July 15, 2019 certification for Supervising Mechanic (M0069A), Borough of Fort Lee.

The record reveals that Fort Lee provisionally appointed James Burke, pending open competitive examination procedures, to the subject title, effective March 12, 2018. An examination was announced with a closing date of January 7, 2019 that resulted in a list of six eligibles with an expiration date of July 10, 2022. A certification containing the names of the six eligibles was issued on July 15, 2019.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving.<sup>1</sup> Specifically, it explained that due to budgetary constraints any future appointments would be predicated upon the outcome of its FY2020 budget deliberations.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

<sup>1</sup> Although the CAMPS system has not been updated to show the provisional appointment and separation from the Supervising Mechanic title, an e-mail from the appointing authority states Burke was removed on October 18, 2019.

It is noted that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

### CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of James Burke, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that due to budgetary constraints any future appointments would be predicated upon the outcome of its FY2020 budget deliberations. Accordingly, there is a sufficient justification for an appointment waiver.

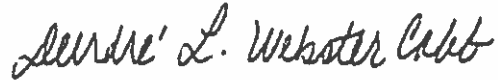
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that its budgetary climate has recently changed after it appointed a provisional to that title which resulted in an examination does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

### ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 4<sup>TH</sup> DAY OF DECEMBER, 2019



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