

## STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Rebecca Breitenbach and Devon McEllen, Radio Dispatcher Typing (C0876W), Ocean County

**Examination Appeals** 

CSC Docket Nos. 2019-2333 and 2019-2218

**ISSUED: APRIL 26, 2019** (SLK)

Rebecca Breitenbach and Devon McEllen appeal the determinations of the Division of Agency Services (Agency Services) that they were not eligible for the open competitive examination for Radio Dispatcher Typing (C0876W), Ocean County. These appeals have been consolidated due to common issues presented.

The experience requirements for the subject examination were six months of experience in radio dispatching or work involved in the operation of radio and telephone equipment by the August 6, 2018 closing date. A total of five individuals applied for the subject examination and the examination was cancelled as each applicant was found ineligible.

Brietenbach indicated on her application that she was entitled to veterans preference and submitted the veterans' application fee of \$15 with her application. See N.J.A.C. 4A:4-2.17(a)1. Additionally, she indicated that she served provisionally in the subject title from May 2018 to the August 6, 2018 closing date, was an Aviation Boatswains Mate Handler for the Navy from June 2012 to October 2015, and served in other titles in the private sector. Agency Services determined that she was ineligible because she did not establish that she was entitled to veterans preference and did not make the \$25 standard application processing fee payment by the closing date. See N.J.A.C. 4A:4-2.17(a). It did not evaluate her experience.

McEllen indicated on his application that he provisionally served in the subject title from June 2018 to the August 6, 2018 closing date and served in various titles in the private sector. Agency Services credited him with three months of experience based on his provisional service in the subject title, but determined that he lacked three months of experience.

On appeal, Breitenbach presents that at the time she submitted her application, she did not know she needed to provide proof concerning her veterans preference. Additionally, she misplaced her original military discharge papers and was unable to establish that she qualified for veterans preference as of the closing date. Therefore, she requests to move forward with her application without claiming veterans preference and she will establish her right to veterans preference at a later date.

McEllen presents that while serving provisionally in the subject title, he gained the required experience after the closing date. He also explains how he used radio communications while serving in various positions in the private sector.

## **CONCLUSION**

*N.J.A.C.* 4A:4-2.3(b)2 requires applicants to possess all the requirements specified in an announcement for an open competitive examination by the closing date. *N.J.A.C.* 4A:1-1.2(c) states that the Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, Agency Services correctly determined that the appellants were not eligible as Breitenbach had not established that she was entitled to veterans preference and did not submit the proper application processing fee, and McEllen did not have the required experience by the August 6, 2018 closing date. However, a review of Breitenbach's application indicates that she possessed the required experience by the August 6, 2018 closing dated based on her provisional experience in the subject title and her service as an Aviation Boatswains Mate Handler. Moreover, she has withdrawn her claim for veterans preference for the subject examination. Concerning McEllen, he gained the required experience after the closing date while serving provisionally in the subject title. Therefore, the Civil Service Commission (Commission) finds good cause under N.J.A.C. 4A:1-1.2(c) to relax the provisions of N.J.A.C. 4A:4-2.17(a) to allow Breitenbach to make a supplemental application processing fee payment in the amount of \$10 to Agency Services that shall be postmarked within 20 days of issuance of this decision, and admit her to the subject examination based on the fact that she has the required experience, she did not know she needed to provide proof of her veterans preference at the time she submitted her application, the examination has been cancelled due to a lack of qualified applicants and she continues to serve provisionally in the subject title. Similarly, the Commission finds good cause under N.J.A.C. 4A:1-1.2(c) to relax the provisions of N.J.A.C. 4A:4-2.3(b)2, for eligibility purposes only, and admit McEllen to the subject examination based on him gaining the required experience after the closing date while serving provisionally in the subject title, the fact that the examination has been cancelled due to a lack of qualified applicants and he continues to serve provisionally in the subject title.

It is noted that these remedies are limited to the particular circumstances of this matter and does not set a precedent in any other matter.

## **ORDER**

Therefore, it is ordered that these appeals be granted and the cancellation of the examination be rescinded. Rebecca Breitenbach shall make a supplemental application processing fee payment in the amount of \$10 to the Division of Agency Services that shall be postmarked within 20 days of issuance of this decision. Upon receipt of her supplemental payment, her application shall be processed for prospective employment opportunities only. Additionally, Devon McEllen's application shall be processed for prospective employment opportunities 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 24th DAY OF APRIL, 2019

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