



STATE OF NEW JERSEY

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

In the Matter of Rahmiati Anthony,
Department of Transportation

CSC Docket No. 2019-1904

Administrative Appeal

ISSUED: May 24, 2019 (SLD)

Rahmiati Anthony, an Environmental Specialist 3, with the Department of Transportation (DOT), appeals the adjustment of her leave allowances due to a leave of absence.

By way of background, the appellant was entitled to 160 hours (8 hours multiplied by 20 days) of vacation leave and 120 hours (8 hours multiplied by 15 days) of sick leave, per year, which was credited on January 1, 2018. On December 3, 2018, the appellant went on an unpaid leave of absence, and she returned to work on December 17, 2018. As a result of her unpaid leave of absence, her leave allowances were reduced by 13.3 hours (1.66 days) of vacation leave and 10 hours (1.25 days) of sick leave. *See N.J.A.C. 4A:6-1.5(b)*. In this regard, it was determined that since the appellant was not on the payroll from the 9th through the 23rd day of the month for either December, she was not entitled to any leave time for that month. *See N.J.A.C. 4A:6-1.5(b)*.

On appeal, the appellant argues that the proration of her leave time for December was unfair. Specifically, she argues that she was in pay status for 11 out of the 20 working days in December. Moreover, she notes that if her leave had been intermittent, instead, she would have only had one half of a month's allotment deducted, since her unpaid leave was less than 11 days. *See N.J.A.C. 4A:6-1.5(c)*.

In response, the appointing authority reiterates that the appellant's leave allowances were correctly calculated pursuant to *N.J.A.C. 4A:6-1.5(b)*.

CONCLUSION

N.J.A.C. 4A:6-1.5 provides, in pertinent part, that:

* * *

- (b) An employee who leaves State service or goes on a leave of absence without pay before the end of the calendar year shall have his or her leave prorated based on time earned, except that the leave of an employee on a voluntary furlough or furlough extension leave shall not be affected. An employee who is on the payroll for greater than 23 days shall earn a full month's allowance, and earn one-half month's allowance if he or she is on the payroll from the 9th through the 23rd day of the month.
- (c) In State service, intermittent days off without pay other than voluntary furlough or furlough extension days shall be aggregated and considered as a continuous leave without pay for calculation of reduced vacation and sick leave credits. When intermittent days off without pay other than voluntary furlough or furlough extension days equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement. Union leave days pursuant to a negotiated agreement shall not be included in such calculations.

Additionally, *N.J.A.C.* 4A:1-1.2(c) provides that the Civil Service Commission (Commission) may relax a rule for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the instant matter, the appellant argues that it is unfair that she was not credited with one-half of one month's entitlement of leave time for December simply because she was not in pay status from the 9th through the 23rd day of the month, despite having been in pay status for 11 out of the 20 working days of December. In this regard, she notes that if she had been in unpaid status intermittently, her leave time would have only been reduced by one-half of the entitlement for December pursuant to *N.J.A.C.* 4A:6-1.5(c), since she was in unpaid status for less than 11 days.

In *In the Matter of Janet McSloy* (CSC, decided May 26, 2010), the Commission noted that *N.J.A.C.* 4A:1-1.3 defined "days" as "calendar days unless otherwise specified." Therefore, the Commission found that the "9th" and "23rd" in the rule referred to actual dates of the month and not number of days worked and since McSloy was not in pay status from the 9th through the 23rd, a full month's

leave allowance was properly deducted. The Commission also noted that even if the rule referred to the number of days worked, McSloy had only been in pay status for eight days during the month in question. However, in the instant matter, the appellant was in pay status for 15 calendar days, which is the same number of calendar days as the time period encompassed by the 9th through the 23rd days of the month. It seems patently unfair to penalize this employee by not providing her with any prorated leave time for December, despite working the same number of days that are encompassed within the required dates, simply because the dates she worked were not within those required dates. Additionally, *N.J.A.C. 4A:6-1.5(b)* provides that an employee who works more than 23 days earns a full month's allotment of leave time. Moreover, *N.J.A.C. 4A:6-1.5(c)* provides in relevant part that intermittent days off without pay shall be aggregated, and when the intermittent days off without pay, "equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement." Under the particular circumstances presented, the Commission finds that good cause has been presented to relax the provisions of *N.J.A.C. 4A:6-1.5(b)* and credit the appellant with one-half month's allowance of sick and vacation leave time (or 5 hours of sick leave and 6.6 hours of vacation leave) for December 2018.

One matter warrants additional comment. The wording of *N.J.A.C. 4A:6-1.5(b)* may lead to illogical results, as evidenced by the instant matter. Accordingly, at this meeting the Commission approved rule changes to the subject provisions to clarify an employee's leave entitlement under the rules.

ORDER

Therefore, it is ordered that this appeal be granted.

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 22ND DAY OF MAY, 2019



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