

STATE OF NEW JERSEY

In the Matter of Administrative Clerk (M0703U), Jersey City

CSC Docket No. 2019-1895

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: July 31, 2019 (RE)

Jersey City requests permission not to make an appointment from the May 1, 2017 certification for Administrative Clerk (M0703U).

The record reveals the appointing authority provisionally appointed Amy Wierzbicki, pending open competitive examination procedures to the subject title, effective June 21, 2016. An examination was announced with a closing date of September 27, 2016 that resulted in a list of 45 eligibles, with an expiration date of April 26, 2020.

The appointing authority returned the certification and requested that it be cancelled as the provisional appointee was no longer serving. Official records indicate that Wierzbicki resigned on November 17, 2016. The appointing authority was informed that a salary disapproval was no longer applicable, but it could request a waiver of the appointment requirement, and if the request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048.

Thereafter, the appointing authority was afforded an opportunity to request the appointment waiver and present arguments why such an assessment should not occur, but no further submissions were provided for the Civil Service Commission (Commission) to review.

A review of agency records indicates that there are currently no other 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 for a list 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 Wierzbicki to the subject title. However, after a complete certification was issued, the appointing authority did not request an appointment waiver, but returned the certification, indicating that no permanent appointment would be made as the provisional was no longer serving. In conjunction with the fact that there are no Administrative Clerks provisionally serving with the appointing authority, 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 regard, the subsequent determination that a particular classification no longer fits the needs of the department is insufficient to support a waiver of the costs of the selection process. 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 31st DAY OF JULY, 2019

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