



**STATE OF NEW JERSEY**

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

In the Matter of Helder Fonseca,  
Battalion Fire Chief (PM2157W),  
Newark

CSC Docket No. 2019-3607

Examination Appeal

**ISSUED:** August 16, 2019 (RE)

Helder Fonseca appeals the determination of the Division of Agency Services denying his request for a make-up examination for Battalion Fire Chief (PM2157W), Newark.

The appellant was scheduled to take the oral portion of the subject examination on May 28, 2109. On May 18, 2019, the appellant requested a make-up examination stating that he had committed to taking a trip with his family to Portugal. He had “reserved and booked” a trip on October 20, 2018, prior to the administration of the written portion in November 2018. purchased a vacation package in September 2017 and finished paying for it in February 2018. It was a trip for four to Jamaica from April 2 to 7, 2018. The appellant provided a reservation confirmation of his plane travel, which were reserved on October 20, 2018. The Division of Administrative Services denied the request, and the appellant subsequently appealed. He provides the same arguments, and submits an eTicket itinerary and receipt for confirmation of flight, although this does not indicate when the appellant paid for the round-trip flight that was scheduled from May 19, 2019 to May 31, 2019. He also provides reservation confirmations from two hotels, and two requests from establishments asking for the appellant to rate his stay.

*N.J.A.C.* 4A:4-2.9(b), (Make-up examinations), provides that make-up examinations for professional level engineering, police, fire, correction officer, sheriff’s officer, juvenile detention officer, and other public safety promotional examinations may be authorized only in cases of: 1) Debilitating injury or illness

requiring an extended convalescent period provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination; 2) Death in the candidate's immediate family as evidenced by a copy of the death certificate; 3) A candidate's wedding which cannot be reasonably changed as evidence by relevant documentation; 4) When required for certain persons returning from military service (*see N.J.A.C. 4A:4-4.6A*) or 5) Error by the Civil Service Commission or the appointing authority. It is noted that this examination was competitive with 49 admitted candidates.

## CONCLUSION

The record establishes that the appellant was scheduled to take the oral portion of the examination on May 28, 2019, and did not do so. A review of the reservation confirmation does not indicate that the reservation could not be cancelled or rescheduled, as the terms and conditions were not included. The Civil Service Commission publishes an Examination Information Alert (EIA) regarding fire promotional announcement and testing schedules. An EIA issued in September 2018 indicated that, "The next oral exam to follow in May of 2019." As such, the appellant was on notice that the exam would be given in one of these months. Even so, he made reservations in October 2018 for this event. There is nothing in the record that the appellant could not change his plans. Prior travel plans outside of New Jersey or any contiguous state is not provided for in these rules as a basis to grant a make-up for fire promotional examinations.

The appellant references the FAQ's which notes that a previously planned vacation outside of New Jersey, New York, Delaware, or Pennsylvania, is an appropriate reason for granting a make-up examination for most titles. *See N.J.A.C. 4A:4-2.9(a)*. Public safety titles, and others, are not provided the same permissions for make-up examinations, and these make-up permissions are listed on pages 2 and 3 of the Battalion Fire Chief Orientation Guide which was made available to all candidates. The appellant was faced, essentially, with a scheduling conflict that he initiated after being put on notice of the tentative test date, and after being put on notice of the authorized reasons for make-up examinations for public safety titles. A scheduling conflict is not a valid reason for a make-up. *See e.g., In the Matter of Rose Messere* (MSB, decided May 5, 2004) and *In the Matter of Douglas Green, Elida Ortiz and Elba Rosario-Diaz* (MSB, decided July 13, 2011). As such, the circumstances presented by the appellant do not meet the above noted criteria.

A thorough review the record indicates that the appellant has failed to support his burden of proof in this matter.

**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 14<sup>th</sup> DAY OF AUGUST, 2019



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