



STATE OF NEW JERSEY

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

In the Matter of Timothy Gushue,
Safety Inspector (PS2801K),
Department of Human Services

CSC Docket No. 2018-158

Examination Appeal

ISSUED: January 30, 2020 (RE)

Timothy Gushue appeals the determination of the Division of Agency Services which found that he was below the experience requirements for the promotional examination for Safety Inspector (PS2801K), Department of Human Services.

The subject examination announcement was open to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and meet the requirements as of the March 21, 2017 closing date. These requirements included four years of experience in the construction, repair, or inspection of buildings and/or mechanical equipment in the industrial, mercantile, manufacturing, or recreational industry. Applicants who did not possess the required experience could substitute college credits on the basis of semester hours for each year of experience up to a maximum of two years. The semester hour credits were limited to: mathematics, sciences, engineering subjects, and/or statistics. The appellant was found be below the minimum requirements in experience. As no candidates were admitted, the examination was canceled on July 20, 2017.

The appellant listed experience in the following positions on his application: provisional Safety Inspector, Emergency Medical Services Technician, two positions as Emergency Medical Technician, and two positions as a Firefighter. He was credited with three months of experience in his provisional position from January 2017 to the closing date, March 2017, and one year, five months of experience in one

Firefighter position. As such, he was found to be lacking two years, four months of required experience.

On appeal, the appellant states that he has five years of experience in building inspections, seven years in inspecting equipment, and he lists his firefighting experience. He adds that he was a first mate on a public recreational speed boat for seven years, wherein his duties were to inspect and maintain all safety equipment. He attaches a resume and a list of duties for some of his positions. The appointing authority supports this appeal. Additionally, the Chief Executive Officer for the Division of Developmental Disabilities states that the appellant was transferred into the Safety Office in September 2013 to perform building and equipment inspections in order to do fire safety inspections to maintain funding.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides in pertinent part that applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process, unless cause is shown for an exception.

Initially, the appellant was correctly deemed to be ineligible for the subject examination since he lacked the minimum requirements in experience as out-of-title work is not accepted for promotional examinations. Acceptable experience has the announced experience requirement as the primary focus. Ancillary duties that are not the primary focus are not acceptable. As such, the appellant's work as an Emergency Medical Services Technician, Emergency Medical Technician and Fire Fighter does not qualify, as those positions do not have the construction, repair, or inspection of buildings and/or mechanical equipment in the industrial, mercantile, manufacturing, or recreational industry as the primary focus.

Nonetheless, the examination was not competitive, with no admitted candidates, and Mr. Gushue remains in his provisional position and has accrued two years, nine months of experience since the March 2017 closing date. Thus, based on the documentation submitted and under these circumstances, good cause has been established to relax the provisions of *N.J.A.C.* 4A:4-2.6(a) to accept the appellant's additional experience beyond the closing date and to admit him to the examination.

ORDER

Therefore, it is ordered that this appeal be granted, the examination cancellation be rescinded, and appellant's application be processed.

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 29th DAY OF JANUARY, 2020



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: Timothy Gushue
Angela Santandrea
Kelly Glenn
Records Center