



STATE OF NEW JERSEY

In the Matter of Hector Dioses, <i>et al.</i> ,	:	FINAL ADMINISTRATIVE ACTION
Compliance Officer 1, MVC	:	OF THE
(PS0918T), Motor Vehicle	:	CIVIL SERVICE COMMISSION
Commission	:	
	:	
	:	
	:	
CSC Docket Nos. 2021-107, 2021-96,	:	Examination Appeals
2021-99, and 2021-132	:	
	:	

ISSUED: OCTOBER 23, 2020 (SLK)

Hector Dioses, Ignacio Rodriguez, Chantell Thomas and Latisha Willingham¹, appeal the determinations of the Division of Agency Services (Agency Services) that they did not meet the requirements for the promotional examination for Compliance Officer 1, MVC (PS0918T), Motor Vehicle Commission. These appeals have been consolidated due to common issues presented.

The examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the November 21, 2019 closing date in any competitive title. The education requirements were possession of an Associate’s degree or successful completion of 60 semester hour credits. The experience requirements were two years of experience in a governmental or private organization involving the review and analysis of varied operations to determine compliance with existing laws, rules, regulations, or procedures. Applicants who did not possess an Associate’s degree or have the required semester hour credits, could substitute additional experience on a year-for-year basis with 30 college credits being equal to one year of experience. A total of 72 employees applied for the subject examination and four were admitted. The test has yet to be administered.

On his application, Dioses indicated that he possessed 25 college credits. Personnel records indicate that he was a Senior Technician, MVC from July 2014 to

¹ Rodriguez, Thomas and Willingham are represented by Seth B. Kennedy, Esq., in this matter. Dioses is *pro se*.

the November 21, 2019 closing date, a Technician, MVC from July 2012 to July 2014, a Senior Technician, MVC from January 2012 to July 2012, a Technician, MVC from July 2010 to January 2012, a Customer Service Representative 4 from October 2005 to July 2010 and a Customer Service Representative Trainee from April 2005 to October 2005. He also indicated other positions in the private sector from January 1998 to April 2005. Agency Services credited him with 10 months of experience based on his 25 college credits, but determined that he lacked three years and two months of experience.

On his application, Rodriguez did not indicate that he possessed any college credits. Personnel records indicate that he was a Safety Specialist 1, MVC from March 2017 to the November 21, 2019 closing date and a Safety Specialist Trainee, MVC from February 2016 to March 2017. He also indicated on his application that he was a Senior Lane Technician for Parsons from January 2000 to February 2016. Agency Services determined that he lacked four years of the required experience.

On her application, Thomas indicated that she possessed 90 college credits. Personnel records indicate that she was a Safety Specialist 1, MVC from May 2019 to the November 21, 2019 closing date, a Monitoring Associate for Affiliated Monitoring from November 2017 to May 2019², a Safety Specialist 1, MVC from May 2015 to June 2017, and a Safety Specialist Trainee, MVC from April 2014 to May 2015. Agency Services determined that she lacked one year of continuous permanent service as of the closing date.

On her application, Willingham indicated that she possessed 20 college credits. Personnel records indicate that she was a Safety Specialist 1, MVC from September 2104 to the November 21, 2019 closing date, and a Safety Specialist Trainee from August 2013 to September 2014. She also indicated on her application that she was a Correspondence Analysis/Traffic Enforcement Agent for the New York City Police Department from January 2004 to November 2010 and a Traffic Enforcement Agent for the New York City Police Department from May 2003 to November 2010. Agency Services credited her with eight months of experience based on her 20 college credits, but determined that she lacked three years and four months of experience.

On appeal, Dioses presents that in addition to his 25 college credits, he has over eight years of experience as a Senior Technician/Technician, MVC. He states that part of his job is to oversee staff and to make sure that they are compliant with rules and regulations. Specifically, Dioses indicates that he oversees and reviews identification documents for authenticity and accepts applications and support documents for simple transactions. He explains that he ensures that documents are not fraudulent when presented for identification and refers problems to his supervisor. Additionally, he represents that he serves in the absence of the supervisor in the verification and approval of motor vehicle transactions and

² As reported on Thomas' application.

resolving complaints. Further, Dioses answers technical questions and explains motor vehicle procedures in accordance with Title 39, clarifies forms, gives instructions and resolves problems. He asserts that his experience involves overseeing staff and the overall varied day to day operations.

Rodriguez presents that as a Senior Lane Technician he ensured that lane technicians were complaint with the laws and regulations of inspection according to Title 39. He explains that his primary focus was to guarantee paperwork presented was reviewed properly and met the requirements for inspection. As a Safety Specialist, Rodriguez states that a large part of his job was to review documents presented by every applicant for a road test. In addition to administering driving tests, he reviewed application materials, forms and CDL documentation to ensure that all applications complied with laws and regulations. Further, he provisionally served as a Safety Specialist 2 for six months and worked with the supervisor to guarantee that all work was performed in compliance with the law.

Thomas submits an appointing authority vacancy posting that it issued on November 29, 2019, with a closing date on December 13, 2019. She highlights that the vacancy posting does not indicate that the required experience needed to be consecutive. Instead, Thomas emphasizes that the vacancy posting only requires serving in a permanent capacity for an aggregate of at least one year and she meets this requirement as she has more than five years of permanent service, including three years of continuous service between 2014 and 2017. Further, she has amassed more than one year of continuous service since her return in May 2019. Thomas believes that while there were other examinations for the subject title which did expressly require one year of continuous permanent service as a prerequisite for those examinations, this vacancy posting did not have such a requirement. Thomas argues that considering the ambiguity in the application requirements, she should be admitted to the subject examination.

Willingham presents that she has seven years of experience as a Safety Specialist 1. In this capacity, she inspected and analyzed driver and vehicle documentation to ensure that they comply with all applicable laws, regulations, rules and procedures. Willingham explains that she has experience both in administering individual driving exams, including reviewing all requisite information to confirm legal compliance, as well as inspection of school buses. She asserts that this experience exposed her to a broad variety of Motor Vehicle Commission operations and a variety of regulatory and legal requirements. Willingham also highlights her experience with the New York Police Department where she was required to comply and enforce even more varied legal and regulatory rules and requirements. Therefore, she believes this varied experience qualifies her for the subject examination.

CONCLUSION

N.J.A.C. 4A:4-2.3(b)2 provides, in pertinent part, that applicants for promotional examinations shall meet all requirements contained in the announcement by the announced closing date.

N.J.A.C. 4A:4-2.6(a)1, provides, in pertinent part, that applicants for promotional examinations shall have one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in title or titles to which the examination is open.

N.J.A.C. 4A:4-6.3(b) provides, in pertinent part, that the appellant shall have the burden of proof in examination appeals.

In these matters, Agency Services correctly determined that the appellants were not eligible for the subject examination. Concerning Dioses, Rodriguez and Willingham, the experience requirements involved experience in a governmental or private organization involving the review and analysis of **varied operations** to determine compliance with existing laws, rules, regulations, or procedures.

The definition section of the Compliance Officer 1, MVC job specification states:

Under the direction of a supervisory official in the Motor Vehicle Commission, is responsible for conducting audits of Motor Vehicle operations incorporating agencies and inspection stations (including Driver Testing operations); has responsibility for conducting investigations on rules, regulations, and procedures pertinent to private inspection facilities, centralized inspection facilities, mobile inspections, motor vehicle agencies, school bus operators and other related businesses licensed/regulating by the Motor Vehicle Commission; does related work as required.

Further, the Examples of Work of the Compliance Officer 1, MVC job specification indicates that incumbents in this title monitor the overall agency operation and observe the business work flow to ensure compliance with Title 39 and MVC rules, regulations, and procedures. Additional Examples of Work involve conducting audits and investigations, performing statistical analysis, responding to interested third-parties, testifying in judicial and/or administrative hearings, and assisting lower-level compliance officers with more complex audits/investigations, among many other potential duties. Therefore, although the subject announcement does not define “varied operations,” the job specification for the subject title indicates that candidates for the subject examination need a broad base of knowledge of the

overall operations of the Motor Vehicle Commission to perform the varied duties that incumbents in this title perform.

A review of Dioses' application indicates that his primary duties involved the review of customer documents for compliance and ensuring documents issued to customers were appropriate. On appeal, Dioses adds that he serves in the absence of his supervisor in the verification and approval of vehicle transactions, resolves complaints from the public and answers technical questions regarding Title 39.

A review of Rodriguez' application indicates that as a Safety Specialist, his primary focus was on administering driving tests, and his primary experience as a Senior Lane Technician was administering motor vehicle inspections. On appeal, Rodriguez presents that as Senior Lane Technician he was responsible for ensuring lane technicians complied with laws and regulations and, in both positions, ensuring that documents complied with requirements was a primary focus.

A review of Willingham's application indicates that her primary focus as a Safety Specialist was administering driving tests, school bus inspections, and examining documentation. On appeal, she emphasizes how she ensured how that driving tests, inspections and documents complied with various laws and regulations. Willingham notes that while serving in the New York City Police Department, she enforced varied legal and regulatory requirements. She argues that her overall experience satisfies the "varied operations" requirements for the subject examination.

However, while Dioses, Rodriguez and Willingham had experience that primarily focused on administering driving tests, conducting vehicle inspections and/or ensuring documentation complied with laws and regulations, none of these appellants held any position that provided the applicable experience of determining compliance of laws and regulations of the "varied operations" of the appointing authority at the breadth and level that provides the experience to perform the duties as articulated by the job specification for the subject title.

Regarding Thomas, she presents a vacancy posting which did not require one year of continuous permanent service as of the closing date to argue that one year of continuous permanent service was not required for the subject examination. Initially, it is noted that the vacancy posting presented was issued after the subject examination announcement. Further, vacancy postings are initiated by the appointing authority and they are not monitored by this agency. Such postings are used by the appointing authority to generate a list of interested individuals to fill vacant positions. Therefore, the requirements set forth in the vacancy posting may differ from the requirements from an announcement from this agency for a permanent position. *See In the Matter of Sarah J. Seigel* (MSB, decided January 11, 2000). In this matter, contrary to Thomas' assertion that there was ambiguity in the application process, the subject announcement that was issued by this agency clearly

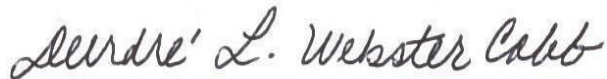
indicated that the examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the November 21, 2019 closing date in any competitive title. Further, the subject announcement was issued with this requirement to be comply with *N.J.A.C. 4A:4-2.6(a)1*. Thomas' personnel record indicates, and which she confirms on appeal, that she had a break in service and she only had continuous permanent service from May 2020 to the November 21, 2020 closing date, which is less than one year. The fact that she had over five years of total permanent service or that she had more than one year of continuous permanent service between 2014 and 2017 does not satisfy the requirement of one year of continuous permanent service as of the closing date under *N.J.A.C. 4A:4-2.6(a)1*.

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 21ST DAY OF OCTOBER 2020



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