



STATE OF NEW JERSEY

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

In the Matter of W.S., Fire Fighter
(M1556T), City of Newark

Medical Review Panel Appeal

CSC Docket No. 2019-1209

ISSUED: DECEMBER 21, 2020 (BS)

W.S., represented by Robert K. Chewning, Esq., appeals his rejection as a Fire Fighter candidate by the City of Newark and its request to remove his name from the eligible list for Fire Fighter (M1556T) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on August 21, 2019, which issued its Report and Recommendation on September 17, 2019. Exceptions were filed on behalf of the appellant.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Krista Dettle (evaluator on behalf of the appointing authority) conducted a psychological evaluation of the appellant and characterized the appellant as being terminated from The Home Depot, being arrested and charged with grand larceny (later downgraded to a summons for “accumulating rubbish”), being arrested for DUI and careless driving (2009), having a car repossessed for non-payment (2009), having two driver’s license suspensions (2007 and 2015), and having accumulating 13 points on his driver’s license at the time of Dr. Dettle’s evaluation. Dr. Dettle also noted that the appellant previously worked for the City of Newark as an “Assistant Deputy Director” from June 2008 to June 2014, when he was laid off from that job.¹ At the time of the evaluation, the appellant was currently a “self-employed investor.” Based on the foregoing, Dr. Dettle did not recommend the appellant for employment as a Fire Fighter.

¹Agency records indicate that the appellant was appointed as a Laborer 1 on July 14, 2008 and then appointed as a Personnel Technician, effective August 4, 2008, and resigned in good standing from that position effective October 1, 2010.

Dr. Robert Kanen (evaluator on behalf of the appellant) carried out a psychological evaluation and characterized the appellant as having no history of being involved in physical altercations, no history of mental health treatment, never having declared bankruptcy, and showing no evidence of drug or alcohol abuse. Dr. Kanen noted the appellant's two arrests, one for DUI in 2009 and one for grand larceny in 2007. The grand larceny charge was downgraded to a local ordinance and misdemeanor. In addition, the appellant had two driver's license suspensions, most recently in 2014. The appellant reported some credit issues due to loans he had taken for real estate investments, but he never declared bankruptcy. Dr. Kanen further noted that the appellant's responses to personality testing produced results "within normal ranges." Dr. Kanen concluded that there was no evidence of any significant problems which would warrant the appellant's rejection as a Fire Fighter candidate.

The evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. The Panel indicated that the negative recommendation found support in the appointing authority's concerns relating to the appellant's history of arrests, termination from employment, driver's license suspensions, and poor management of his personal finances. The Panel discussed these issues with the appellant. Additionally, the Panel found that the appellant had not maintained a stable employment history and he had changed jobs on several occasions, at times for reasons that appeared to reflect poor decisions or poor planning. Of particular concern to the Panel was the appellant's decision not to have an expensive automobile inspected so he could obtain insurance. This decision resulted in the appellant not having insurance when being involved in an accident with that automobile. In addition to his DUI and license suspensions (he still had 10 points on his driver's license at the time of the Panel meeting), the Panel was also concerned with the appellant's management of his personal finances, where it appeared that he mixed some of his business concerns with personal financial risk. This resulted in ongoing financial problems for the appellant. The Panel determined that the appellant displayed a pattern of poor judgment over several years which may likely interfere with his ability to serve as a Fire Fighter. Accordingly, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter, indicated that the candidate was psychologically unfit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should be upheld. Therefore, the Panel recommended that the appellant be removed from the eligible list.

In his exceptions, the appellant argues that the Panel erroneously concluded that he was psychologically unfit based on "perceived" negatives in his background rather than reviewing his psychological fitness. The appellant cites *In re Vey*, 124 N.J. 534 (1991) and 135 N.J. 306 (1994), which states in pertinent part that an employer must demonstrate by professionally acceptable methods that the selection device is predictive of or significantly correlated with an element of work behavior.

The appellant contends that neither the appointing authority nor the Panel have demonstrated how his “alleged” characteristics and traits connect to a conclusion that he is psychologically unfit for a Fire Fighter position and that the Panel had simply used the psychological evaluation as a “re-do” for the background check which had already been approved by the appointing authority. Further, he asserts that the Panel had failed to properly consider the findings of Dr. Kanen. Therefore, the appellant maintains that he is psychologically fit to serve as a Fire Fighter and that his name should be restored to the subject eligible list.

CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the Civil Service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, e.g. preventing further injury, reducing shock, restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

The Civil Service Commission has reviewed the Job Specification for Fire Fighter and the duties and abilities encompassed therein and finds that the appellant’s psychological traits, which were identified and supported by test procedures and the behavioral record, relate adversely to the appellant’s ability to effectively perform the duties of the title. The exceptions filed on behalf of the appellant are not persuasive. In that regard, although the appellant may cite the standard articulated in *Vey, supra*, and dispute what his financial problems, adverse motor vehicle history, termination, and sporadic work history have to do with his psychological suitability for employment as a Fire Fighter, all of these areas are illustrative of acts of poor judgment which are not conducive to an individual seeking to successfully function in a public safety environment. As set forth above, a Fire Fighter must follow procedures and must use sound judgment and logical thinking when responding to many emergency situations. Moreover, although the appellant’s

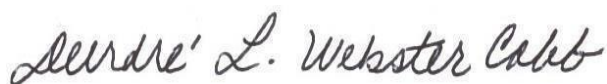
evaluator may have found him psychologically suitable, the appointing authority's evaluator and the members of the Panel, after reviewing all of the evaluations found the appellant not to be psychologically suitable for employment as a Fire Fighter. It is emphasized that the Panel consists of qualified and licensed Psychologists and a Psychiatrist, who conduct an independent review of the raw data presented by the parties as well as the recommendations and conclusions drawn by the various evaluators and that, in addition to the Panel's own review of the results of the tests administered to the appellant, it also assesses the appellant's presentation before it prior to rendering its own conclusions and recommendations which are based firmly on the totality of the record presented.

Therefore, having considered the record, including the Job Specification for Fire Fighter and the duties and abilities encompassed therein, and the Panel's Report and Recommendation issued thereon and the exceptions filed on behalf of the appellant, and having made an independent evaluation of the same, the Civil Service Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has met its burden of proof that W.S. is psychologically unfit to perform effectively the duties of a Fire Fighter and, therefore, the Civil Service Commission orders that his name be removed from the subject eligible list.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 16TH DAY OF DECEMBER 2020



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