



STATE OF NEW JERSEY

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

In the Matter of Code Enforcement
Officer (M0624W), Borough of
Lavallette

Appointment Waiver

CSC Docket No. 2020-2245

ISSUED: JUNE 19, 2020 (BW)

The Borough of Lavallette requests permission not to make an appointment from the January 28, 2019 certification for Code Enforcement Officer (M0624W), Lavallette Borough.

The record reveals that an examination announcement to fill a vacant position in the subject title was issued with a closing date of May 21, 2018 and resulted in a list of seven eligibles with an expiration date of January 23, 2022. A certification containing the names of the seven eligibles was issued on January 28, 2019.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list. Specifically, it explained that the Borough of Lavallette was in a shared service agreement with the Borough of Seaside Park for their Construction/Zoning/Code Enforcement Department effective February 13, 2017, and ending on December 31, 2018. Lavallette was the lead municipality and became the employer of the Seaside Park employees that were already working in those departments. The provisional employee was the Code Enforcement Officer for the Borough of Seaside Park at the time the agreement took effect, so he became the employee of the Borough of Lavallette and was removed from employment on April 9, 2018. It also indicated they are not in need of a Code Enforcement Officer.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing

authority did not provide any additional information for the Civil Service Commission (Commission) to review.

It is noted that there are currently no 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 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 a vacancy. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the provisional employee was Kaitlyn Ippolito, she is now permanent in the title of Clerk 1.

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 case, although the provisional employee was the Code Enforcement Officer for the Borough of Seaside Park at the time the agreement took effect, he became the employee of the Borough of Lavallette. Accordingly, while his subsequent removal from employment on April 9, 2018 and the appointing authority's indication that it does not need a Code Enforcement Officer is sufficient basis for an appointment waiver, it does not provide a basis to waive the assessment of costs.

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
17TH DAY OF JUNE, 2020



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