



STATE OF NEW JERSEY

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

In the Matter of Mildred Davis,
Department of Labor and Workforce
Development

Administrative Appeal

CSC Docket No. 2020-2366

ISSUED: OCTOBER 2, 2020 (SLD)

Mildred Davis, a Principal Examiner, Unemployment Tax, with the Department of Labor and Workforce Development (DOL), appeals the adjustment of her leave allowances due to her leaves of absence.

By way of background, in 2019, the appellant was entitled to 175 hours (7 hours multiplied by 25 days) of vacation leave and 105 hours (7 hours multiplied by 15 days) of sick leave, per year, which was credited on January 1, 2019. On October 30, 2019, the appellant’s physician placed her on reduced work schedule of four hours per day from October 30 through December 13, 2019.

On appeal, the appellant maintains that as she had utilized all of her “earned” time by November 13, 2019, she requested to be placed on leave without pay. However, the appointing authority refused, and instead required her to utilize all of her sick leave time. The appellant argues that pursuant to *N.J.A.C. 4A:6-1.5(c)*, the leave time she would have earned in December, “should not have been used and reduced until [she] was out 11 days.”

In response, the appointing authority asserts that per departmental policy, employees on intermittent leave are required to utilize their own leave time prior to being placed on a leave without pay. Moreover, it maintains that an employee’s leave time is only prorated after the employee’s leave without pay has been equal to 11 days.

In response, the appellant argues that she should not have been required to utilize the 8.4 hours of sick time she would “earn” in December, after she had used

all of her already “earned” time on November 13, 2019.¹ Therefore, she requests that she be credited with 8.4 hours.

CONCLUSION

N.J.A.C. 4A:6-1.5(c) provides that:

In State service, intermittent days off without pay other than voluntary furlough or furlough extension days shall be aggregated and considered as a continuous leave without pay for calculation of reduced vacation and sick leave credits. When intermittent days off without pay other than voluntary furlough or furlough extension days equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement. Union leave days pursuant to a negotiated agreement shall not be included in such calculations.

After the first year of employment, employees are credited with their leave time entitlements at the beginning of the calendar year, in anticipation of continued employment. See *N.J.A.C.* 4A:6-1.2(a), *N.J.A.C.* 4A:6-1.3(a)2, and *N.J.A.C.* 4A:6-1.9(a)2.

In the instant matter, the appellant argues that she should not have been required to use 8.4 hours of sick time after November 13, 2019, since she would not earn that time until December, pursuant to *N.J.A.C.* 4A:6-1.5(c). However, the Civil Service Commission (Commission) does not agree. In this regard, *N.J.A.C.* 4A:6-1.5(c) merely provides, in pertinent part, that when intermittent days off without pay equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement. However, the record does not indicate that the appellant was placed on an unpaid leave prior to November 13, 2019, and therefore, *N.J.A.C.* 4A:6-1.5(c) would not apply. Moreover, there is no indication in the record that the appellant's unpaid intermittent leave exceeded an amount equal to 11 days or that if it did, that her leave time was prorated incorrectly. Specifically, the appellant acknowledges that her leave time amount was not reduced nor did she use any time that she was required to reimburse the State for. Finally, as noted above, all leave time is credited at the beginning of the calendar year in anticipation of continued employment. Therefore, the departmental policy requiring her to use her time does not, under the circumstances presented here, conflict with any Civil Service law or rules. Accordingly, the appellant's appeal is denied.

ORDER

Therefore, it is ordered that this appeal be denied.

¹ The appellant acknowledges that her leave did not cause her time to be overdrawn, due to being prorated.

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 30TH DAY OF SEPTEMBER, 2020

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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