

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE  
ACTION OF THE  
CIVIL SERVICE COMMISSION

In the Matter of T.D.E., Fire Fighter  
(M1844W), City of Jersey City

CSC Docket No. 2020-1532

Medical Review Panel

ISSUED: JANUARY 22, 2021  
(DASV)

T.D.E., represented by Daniel J. Zirrith, Esq., appeals his rejection as a Fire Fighter candidate by the City of Jersey City and its request to remove his name from the eligible list for Fire Fighter (M1844W) on the basis of psychological unfitness to perform effectively the duties of the position.

By way of background, this appeal was brought before the Medical Review Panel (Panel) on July 31, 2020, which rendered a Report and Recommendation dated August 4, 2020. The Panel recommended that the appellant undergo an independent evaluation, which “should focus on the extent, to which, if any” [the appellant’s] alcohol use could affect his ability to carry the job responsibilities for the position he seeks.” In *In the Matter of T.D.E.* (CSC, decided October 21, 2020), the Civil Service Commission (Commission) agreed with the Panel and ordered that the appellant be referred for independent evaluation. The appellant was to contact the Commission’s independent evaluator within 15 days of the October 23, 2020 issuance date of the determination to schedule an appointment. If the appellant did not contact the independent evaluator, the matter was to be returned to the Commission for a final administrative determination and the appellant’s lack of pursuit would be noted. On November 17, 2020, the independent evaluator advised Commission staff that the appellant had inquired about an evaluation. However, the appellant did not schedule an appointment, which was in person. On December 10, 2020, the independent evaluator confirmed that an appointment had never been made, and therefore, the appellant was not evaluated. It is noted that the appellant has not notified the Commission in this regard.

CONCLUSION

*N.J.A.C.* 4A:4-6.5(g) in relevant part provides that the Commission shall either conduct a written record review of the appeal or submit psychological appeals

to the Panel, which may request additional psychological reports, examinations, or other materials. Additionally, *N.J.A.C.* 4A:4-6.5(g)4 indicates that, in appropriate cases, the Commission may refer an appellant for an independent professional evaluation. Moreover, *N.J.A.C.* 4A:2-1.1(c) states that the appellant must provide any additional information that is requested, and failure to provide such information may result in dismissal of the appeal. Finally, *N.J.A.C.* 4A:4-6.3(b) provides that the appellant shall have the burden of proof, except for medical or psychological disqualification appeals, where the appointing authority shall have the burden of proof.

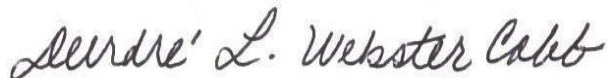
In the instant matter, the Panel was concerned with the appellant's alcohol consumption and requested that the appellant undergo an independent evaluation. The Commission agreed with the Panel and ordered that the appellant undergo an independent evaluation to ascertain whether that behavior deemed him psychologically unsuitable for a Fire Fighter position. The appellant has failed to comply with the Commission's order and provide necessary information. Consequently, there is not a sufficient basis to disturb the appointing authority's request for removal of the appellant from the subject eligible list due to psychological reasons. Accordingly, pursuant to *N.J.A.C.* 4A:2-1.1(c), the appellant's appeal is dismissed for lack of pursuit.

### **ORDER**

Therefore, the appellant's appeal is dismissed for lack of pursuit.

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 20<sup>H</sup> DAY OF JANUARY 2021



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