



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Stephen Palacio,
Department of Children and Families

Request for Reconsideration

CSC Docket No. 2021-528

ISSUED: JANUARY 22, 2021 (BW)

Stephen Palacio, a Family Service Specialist 2, Bilingual in Spanish and English, Department of Children and Families, petitions the Civil Service Commission (Commission) for reconsideration of the decision rendered on October 23, 2020, in which the Director of the Division of Appeals and Regulatory Affairs (DARA), denied his request for a hearing with respect to his release at the end of the working test period.

By way of background, the final working test period report, which had the appeal rights information displayed, was signed and dated by the petitioner on July 21, 2020. By letter postmarked August 17, 2020, the petitioner submitted an appeal to the Commission. However, since the petitioner did not submit his appeal within 20 days of the July 21, 2020 appeal rights notice, the request for a hearing was denied.

In support of his petition for reconsideration, the petitioner submits that although he did sign the final working test period paper on July 21, 2020, he was handed his appeal rights letter on July 28, 2020, his last day of work.

The appointing authority confirmed that July 28, 2020 was the petitioner's last day of work and that is the date he received his appeal rights letter.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

N.J.S.A. 11A:2-15 provides that appeals from termination at the end of the working test period must be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. See also *N.J.A.C.* 4A:2-4.2(a). This 20-day time limitation is jurisdictional and cannot be relaxed or waived. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); See also, *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978).

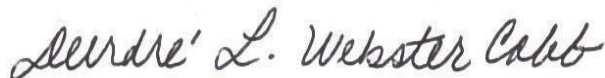
In the instant matter, the petitioner was served the appeal rights letter on July 28, 2020. The appointing authority confirms that the petitioner's last day of work was July 28, 2020 and that he received his appeals rights letter on that day. Accordingly, under these particular circumstances, the Commission finds that the petitioner appealed his release at the end of the working test period within 20 days of receipt of the appeal rights letter and is therefore entitled to a hearing at the Office of Administrative Law.

This decision is limited to the unique facts presented in this matter and it should not be used as a precedent in any other matter.

ORDER

Therefore, it is ordered that this petition be granted and the matter be referred to the Office of Administrative Law for a hearing as a contested case.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20^H DAY OF JANUARY 2021



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