



	:	STATE OF NEW JERSEY
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	:	FINAL ADMINISTRATIVE ACTION
	:	OF THE
In the Matter of N.T.F., Fire Fighter	:	CIVIL SERVICE COMMISSION
(M1844W), City of Jersey City	:	
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CSC Docket No. 2021-216	:	Acknowledgment of Settlement
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ISSUED: MAY 3, 2021 (DASV)

N.T.F., represented by Michael L. Prigoff, Esq., and the City of Jersey City, represented by James M. LaBianca, Assistant Corporation Counsel, petition the Civil Service Commission (Commission) for acknowledgment of the settlement reached by the parties which provides for N.T.F.’s restoration to the Fire Fighter (M1844W), City of Jersey City, eligible list and his appointment effective April 26, 2021.

By way of background, N.T.F. appeared on the Fire Fighter (M1844W), City of Jersey City, eligible list which promulgated on March 29, 2019 and expires on March 28, 2022.¹ N.T.F. was certified to the appointing authority on December 3, 2019. In disposing of the certification, the appointing authority removed N.T.F.’s name on the basis that he was not psychologically fit to perform effectively the duties of the position. In support of the removal, the appointing authority submitted a report from its psychological evaluator who did not recommend N.T.F.’s appointment. It is noted that appointments had been made from the subject certification effective July 6, 2020. N.T.F. was reachable for appointment. Thereafter, N.T.F. appealed his removal to the Commission and submitted an independent psychological report from his evaluator, who found “no emotional, cognitive or behavioral barriers which prohibit[ed] him from being declared fit to assume the duties of a firefighter.” In consideration of the competing

¹ The expiration of the eligible list had originally been March 28, 2021. However, it was recently extended for one year.

recommendations, the matter was scheduled for review by the Medical Review Panel (Panel) at its February 19, 2021 meeting.² However, the appellant's attorney advised that the parties had agreed to settle the matter and would forward the executed agreement to the Commission. Thus, N.T.F.'s meeting with the Panel was adjourned. In February 2021, the parties submitted a "Settlement Agreement and General Release" (Settlement Agreement), which provided for N.T.F.'s restoration to the subject eligible list and his enrollment "in the next available Fire Academy class." Additionally, N.T.F. agreed not to seek back pay, counsel fees, or salary step placement based on "his initial date of application and agree[d] that his actual start date with Jersey City shall determine any future entitlement to longevity payment." In March 2021, the parties presented an "Addendum to Settlement Agreement and General Release" (Addendum). The Addendum clarified that the parties agreed that N.T.F.'s "appointment and official date of hire" would be on or about April 26, 2021.

CONCLUSION

N.J.A.C. 4A:4-6.5(a) provides that an appointing authority may request that an eligible's name be removed from an eligible list due to disqualification for medical or psychological reasons which would preclude the eligible from effectively performing the duties of the title. *N.J.A.C.* 4A:4-6.3(a)2 indicates that appeals may be made on disqualification for medical or psychological reasons. In medical or psychological disqualification appeals, the appointing authority shall have the burden of proof. *See N.J.A.C.* 4A:4-6.3(b). Additionally, *N.J.A.C.* 4A:4-4.9(a)2 states that an eligible shall not be appointed and begin work after the expiration date of the eligible list except when there is limited revival or statutory extension of an employment list, except that no appointment shall be made beyond the statutory extension date.

In the instant matter, the parties have reached a settlement concerning N.T.F.'s eligibility for appointment as a Fire Fighter. The Commission has reviewed the Settlement Agreement and Addendum. The policy of the judicial system strongly favors settlement. *See Nolan v. Lee Ho*, 120 *N.J.* 465 (1990); *Honeywell v. Bubb*, 130 *N.J. Super.* 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 *N.J. Super.* 472 (App. Div. 1961), *cert. denied*, 35 *N.J.* 61 (1961). This policy is equally applicable in the administrative area. A settlement will be set aside only where there is fraud or other compelling circumstances. *See Nolan, supra*. A review of the settlement in this matter finds that no such compelling circumstance exist. Moreover, in light of the fact that the parties have amicably resolved their differences, N.T.F. was a reachable eligible for appointment on the subject certification, and he has provided an opinion from a licensed psychologist of his psychological fitness for the position, the Commission finds good cause to restore his

² The appellant was initially scheduled to meet with the Panel on January 15, 2021, but he was unable to attend for good cause reasons.

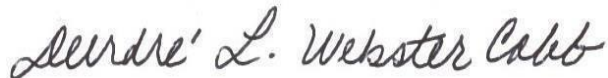
name to the Fire Fighter (M1844W), City of Jersey City, eligible and reflect his appointment, effective April 26, 2021, in compliance with *N.J.A.C.* 4A:4-4.9(a)2. Accordingly, the Commission finds a sufficient basis to acknowledge the settlement between the parties.

ORDER

Therefore, the Commission acknowledges the subject settlement as clarified and orders that N.T.F. be restored to the December 3, 2019 certification of the Fire Fighter (M1844W), City of Jersey City, eligible list and recorded as appointed effective April 26, 2021.

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 28th DAY OF APRIL, 2021



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