



STATE OF NEW JERSEY

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

In the Matter of Matthew Hearon,
Fair Lawn

CSC Docket No. 2021- 1789

Administrative Appeal

ISSUED: JUNE 7, 2021 (ACM)

The Borough of Fair Lawn (Fair Lawn) requests relaxation of *N.J.A.C.* 4A:4-7.1A(a)1 to permit the intergovernmental transfer of Matthew Hearon from the title of Police Officer Palisades Interstate Park, Palisades Interstate Park Commission, to the title of Police Officer, Fair Lawn.

In the present matter, Fair Lawn seeks the transfer of Hearon from the title of Police Officer Palisades Interstate Park, at the Palisades Interstate Parkway Commission, to the title of Police Officer, Fair Lawn. Hearon, the Palisades Interstate Park Commission, and Fair Lawn reached an agreement as to the terms of transfer. The agreement provides, in pertinent part, that Hearon waives all accumulated seniority and sick leave in accordance with *N.J.S.A.* 11A:2-28(1) a and b. However, this request was unable to be processed on the basis that Hearon is serving provisionally, pending promotional examination procedures, in the title of Police Officer Palisades Interstate Park.

In that regard, Jim Van Kruningen, Borough Manager with Fair Lawn, states that Hearon was provisionally appointed as a Police Officer Palisades Interstate Park, Palisades Interstate Park Commission on August 18, 2018 and completed the full Basic Course for Police Officers in January 2019. However, Hearon has not been appointed from an eligible list for the title since a promotional announcement has not yet been issued. Nevertheless, Hearon was permanently appointed to the Security Officer title with the Palisades Interstate Park Commission on March 10, 2018. Additionally, Hearon has taken and passed the open competitive Entry Level Law Enforcement Examination (LEE) (S9999A) and achieved a score of 93.50. Further, Van Krunigen indicates that due to upcoming retirements in the Fair Lawn Police

Department, there is a pressing public safety need for it to hire additional law enforcement personnel who have completed the full Basic Course for Police Officers. Therefore, Fair Lawn requests the relaxation of *N.J.A.C. 4A:4-7.1A(a)(1)* to permit the intergovernmental transfer of Hearon, who is provisionally appointed pending promotional examination procedures in the title of Police Officer Palisades Interstate Park, Palisades Interstate Park Commission, but who has underlying permanent status as a Security Officer, to the title of Police Officer. Fair Lawn confirms that it will subject Hearon to a complete 12 month working test period in the title of Police Officer.

CONCLUSION

N.J.A.C. 4A:4-7.1A(a)1 provides, in pertinent part, that an intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A, New Jersey Statutes and that non-permanent employees serving in entry level law enforcement titles who were appointed from an eligible list and who have completed the required Police Training Commission training course may intergovernmentally transfer upon consent of the sending and receiving jurisdictions, but will be required to complete the full 12-month working test period with the receiving jurisdiction.

N.J.A.C. 4A:4-5.2(d) states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Division of Agency Services. Although the terms of transfer in this case were agreed to by the transferring agency, the receiving agency and the transferring employee, it will not be able to be processed, absent rule relaxation procedures, since Hearon is not permanent in the title of Police Officer Palisades Interstate Park.

It is noted that on February 4, 2021, *N.J.S.A. 11A:4-1.3* was signed into law, which will become effective August 4, 2021. *N.J.S.A. 11A:4-1.3c* will permit a municipality to hire a person, exempt from the requirement to take the entry level law enforcement examination conducted by the Civil Service Commission, who has successfully completed the full Basic Course for Police Officers at a school approved

and authorized by the New Jersey Police Training Commission. While the legislative intent of this law is to increase diversity in the hiring of Police Officers, it cannot be ignored that in his signing statement, the Governor indicated that the new law “would allow, but not require, an appointing authority to hire a candidate based upon completion of a course that teaches and ***tests an array of qualities and skills necessary to become a successful law enforcement officer.*** “ (emphasis added). Stated differently, successful completion of the full Basic Course for Police Officers has been equated to passing the entry level law enforcement examination and permits appointing authorities to hire those individuals as Police Officers absent open competitive list issuance and normal Civil Service certification and appointment procedures.

In this case, while Hearon is serving provisionally pending promotional examination procedures in the title of Police Officer, Palisades Interstate Park, it cannot be ignored that he has underlying permanent status in the title of Security Officer. Additionally, Hearon has been performing the duties of a Police Officer Palisades Interstate Park since his provisional appointment to the title in August 2018, he successfully completed the requirements for the Basic Course for Police Officers, and he achieved a passing score on the current LEE and is on the S9999A eligible list. In this regard, it is noted that in State service, in some instances, a candidate’s score on the LEE is utilized when processing promotional announcement for some State entry level law enforcement titles. However, there is no current promotional announcement or promotional eligible list for Police Officer Palisades Interstate Park from which to regularly appoint Hearon. Based on these unique factors, including the fact that he is permanent in his underlying title and Fair Lawn’s pressing need for fully trained Police Officers, good cause exists to relax the provisions of *N.J.A.C. 4A:4-7.1A* to permit the intergovernmental transfer of Hearon to the title of Police Officer, Fair Lawn.

N.J.S.A. 11A:2-28(1) a and b provide that law enforcement officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights, and that the waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and the Division of Agency Services. *See also, N.J.A.C. 4A:4-7.1A(b)2.* In this case, Hearon signed an agreement indicating that he waives all accumulated seniority and all accrued sick leave which was acknowledged by the receiving agency. Accordingly, accumulated seniority and sick leave do not transfer. *See N.J.A.C. 4A:4-7.4(c).*

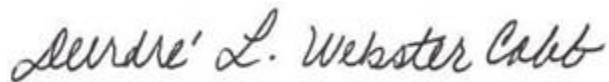
ORDER

Therefore, it is ordered that the request, seeking to allow the prospective transfer of Matthew Hearon from the Palisades Interstate Park Commission to Fair

Lawn's Police Department, be granted. Additionally, Matthew Hearon's 12-month working test period shall commence upon appointment as a Police Officer, Fair Lawn.

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 2ND DAY OF JUNE, 2021



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Allison Chris Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Matthew Hearon
Jim Van Kruiningen
Joshua Laird
Division of Agency Services