



STATE OF NEW JERSEY

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

In the Matters of Mark Eggert and
Andrew Lee, Police Sergeant
(PM0821V), Lawrence Township

List Removal Appeals

CSC Docket Nos. 2021-1302 and
2021-1286

ISSUED: SEPTEMBER 7, 2021 (HS)

Mark Eggert and Andrew Lee appeal the removal of their names from the eligible list for Police Sergeant (PM0821V), Lawrence Township (Lawrence) on the basis that they failed to respond to the certification notice. The appeals have been consolidated due to common issues presented.

The appellants, non-veterans, took and passed the promotional examination for Police Sergeant (PM0821V), which had a closing date of July 21, 2017. The resulting eligible list promulgated on May 24, 2018 and expires on May 23, 2022.¹ The appellants' names were certified to Lawrence on January 30, 2020 (PL200161) with a notice date of February 6, 2020. Certification notices instruct individuals to write to the appointing authority² within five business days of the notice date to let the appointing authority know whether or not the individual is interested in the position. In disposing of the certification, Lawrence requested the removal of the appellants' names on the basis that they failed to respond to the certification notice. In Eggert's case, the certification notice was returned by the postal authorities. The disposition of the certification was recorded June 10, 2020, at which time certification disposition notices were sent to the appellants informing them of the removal of their names from the eligible list.

¹ The list was extended one year.

² The Township Manager in this case.

MARK EGGERT

In his appeal to the Civil Service Commission (Commission), postmarked March 5, 2021, Eggert claims that his current address, one in Burlington, was “updated and active at the time of Certification #PL200161.” He maintains that his name was inappropriately removed from the eligible list and that he would have expressed his interest in the position had he received his certification notice. Eggert maintains that he would have promptly filed the instant appeal had he received the certification disposition notice. He also requests that the eligible list be placed on hold until a hearing is held on his appeal.

In response, Lawrence, represented by Jennifer Meyer-Mahoney, Esq., points out that while the certification notice was sent to an Ewing address, Eggert is now using a Burlington address. It notes that Eggert has not indicated when he moved or if he updated his address with this agency as required. Lawrence also urges the Commission to dismiss Eggert’s appeal as untimely.

Agency records reflect that Eggert indicated an Ewing address on his examination application. On February 24, 2021, Eggert submitted an address change to this agency indicating an address change from Lawrenceville to his current Burlington address.³

ANDREW LEE

In his appeal to the Commission, postmarked March 6, 2021, Lee states that in or around the summer of 2018, he moved from a Lawrenceville address to his current address, also in Lawrenceville. At the time of the move, he filed the necessary forms with the postal authorities to have his mail forwarded and submitted an address change to the Police Chief at the time. In January 2021, according to Lee, he submitted a memorandum to the current Police Chief regarding his address not being changed within the Police Department. The current Police Chief responded that the prior address change request could not be located and that this agency would have to be notified directly. Lee then contacted this agency to ensure that his address on file was updated. He maintains that his name was inappropriately removed from the eligible list as he never received the certification notice and has made his desire to be promoted known. Lee maintains that he would have promptly filed the instant appeal had he received the certification disposition notice. Lee also requests that the eligible list be placed on hold until a hearing is held on his appeal.⁴

³ Thus, it appears that Eggert never submitted an address change when his address changed from Ewing to Lawrenceville.

⁴ The Commission has no jurisdiction to decide Lee’s claim that Lawrence has failed to provide a complete response to his request under the Open Public Records Act. *See N.J.S.A. 47:1A-6*

In response, Lawrence notes that Lee has not stated that he updated his address with this agency when he moved in 2018, as was required. Rather, he did not update his address with this agency until 2021. Lawrence argues that Lee's failure to receive the certification notice was due to his own failure to update his address and that there is no good cause for the delay in his filing of the instant appeal.

Agency records reflect that Lee indicated a Lawrence address on his examination application. On January 27, 2021, Lee submitted an address change to this agency indicating an address change from the former Lawrence to his current Lawrence address.

CONCLUSION

Upon determining that there is a need for a certification as provided in *N.J.A.C.* 4A:4-4.1, this agency shall issue, or authorize the issuance of, a certification to the appointing authority containing the names and addresses of the eligibles with the highest rankings on the appropriate list. *N.J.A.C.* 4A:4-4.2(a). When a certification is issued, this agency shall notify, or authorize the notification of, the eligibles whose names appear on the list, at the last known address. *N.J.A.C.* 4A:4-4.2(b). It shall be the responsibility of an eligible to keep a current address on file with this agency. *N.J.A.C.* 4A:4-3.2(e).

The name of an eligible may be removed from an eligible list for non-compliance with the instructions listed on the notice of certification. *N.J.A.C.* 4A:4-4.7(a)6. An appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error. *See N.J.A.C.* 4A:4-6.3(b) and *N.J.A.C.* 4A:4-4.7(d).

A list removal appeal shall be filed within 20 days of notice of the removal. *See N.J.A.C.* 4A:4-6.6(a)1.

Initially, list removal appeals are treated as reviews of the written record. *See N.J.S.A.* 11A:2-6b. Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists that can only be resolved through a hearing. *See N.J.A.C.* 4A:2-1.1(d). For the reasons explained below, no material issue of disputed fact has been presented that would require a hearing. *See Belleville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978).

(providing that one denied access to a government record may file an action in Superior Court or a complaint with the Government Records Council).

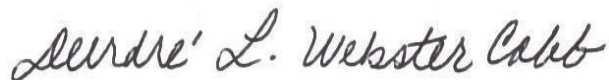
Lawrence requested the removal of the appellants' names from the eligible list on the basis of their failure to respond to the January 30, 2020 (PL200161) certification, which had a notice date of February 6, 2020. The appellants maintain that they did not receive the certification notice and were inappropriately removed from the list. Specifically, Eggert generally asserts that his current address was updated at the time of the certification. Lee maintains that he moved to his current address in 2018, at which time he arranged for mail forwarding with the postal authorities and submitted the address change to the former Police Chief. Lee states that he also brought his address change to the attention of the current Police Chief in January 2021. These arguments are not persuasive as Civil Service regulations provide that it shall be the *eligible's responsibility* to keep a current address on file *with this agency*. See *N.J.A.C. 4A:4-3.2(e)*. Arranging for mail forwarding with the postal authorities and noting the address change at one's place of employment are not sufficient. While the appellants did ultimately communicate their address changes to this agency, those communications occurred in early 2021, long after the certification issued. The appellants' own failure to promptly update their addresses with this agency explains their non-receipt of the certification notice and the untimely nature of their appeals, since certification disposition notices are also sent to the last known address. Accordingly, the appellants have not met their burden of proof.

ORDER

Therefore, it is ordered that these appeals be denied.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 1ST DAY OF SEPTEMBER, 2021



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