



STATE OF NEW JERSEY

In the Matter of Tyvaughn Bedford,
Fire Fighter (M1816W), City of East
Orange

CSC Docket No. 2022-532

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

List Removal Appeal

ISSUED: (JANUARY 21, 2022 PS)

Tyvaughn Bedford appeals the decision to remove his name from the Fire Fighter (M1816W), City of East Orange, eligible list on the basis of falsification of his application.

The appellant took the open competitive examination for Fire Fighter (M1816W), which had an August 31, 2018, closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application. Specifically, it indicated that in response to the question on the application “Have you ever been arrested or charged with a violation of any State’s Disorderly Persons Act or any City Ordinance even if you were later found ‘not guilty?’” the appellant answered “no” but was charged with Criminal Mischief Domestic Violence on January 19, 2020, in the City of East Orange. Furthermore, the appellant was charged with Simple Assault on April 6, 2015, in the City of East Orange and again in 2020 in the City of East Orange. The appointing authority also indicated the appellant had an unsatisfactory driving record. In this regard, the appellant’s Motor Vehicle license was suspended three times between 2017 and 2018. Additionally, he has motor vehicle violations that include, but are not limited to: Improper Display/Fictitious Plates, Driving While Suspended, Obstruction of Passage of Other Motor Vehicle and Maintenance of Lamps.

On appeal, the appellant states that he never intended to try to conceal or falsify his background application and states that he included all information to the best of his knowledge at the time he was filling out his background application. He presents that he takes full responsibility for the many tickets he obtained on his driver’s license

realizing that these violations eventually turned into warrants for his arrest. Additionally, he indicates that he has matured and turned his life around and wants to pursue a career with the fire department. The appellant was able to obtain information from his mother regarding his background history, but he was unaware how to obtain information on himself that would have helped him fill out his application more efficiently. Furthermore, the appellant contends that the “withheld information” was acts of omission, due to his failure to recall incidents that happened years ago.

The appointing authority, although given the opportunity did not respond.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Civil Service Commission (Commission) to remove an eligible’s name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. The primary inquiry regarding the removal of a candidate’s name based on the falsification of his or her employment application is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. *See In the Matter of Nicholas D’Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003).

N.J.A.C. 4A:4-4.7(a) 1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible’s name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate’s background and recognizing the nature of the position at issue, a person should not be eligible for appointment. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. *See In the Matter of Pedro Rosado v. City of Newark*, Docket No. A4129-OIT1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-OOT3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998). Regarding fire fighters, unless driving is presented as an essential function of the position, an individual’s driving record is not a valid basis for removal from a list. However, where an appointing authority uses such a basis, it is presumed that it considers driving an essential function. Further, it is an appellant’s burden of proof to establish that driving is not an essential function of the position. The appellant has provided no such evidence in this matter.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to remove his or her name from an eligible list was in error.

In this matter, the appointing authority had a valid reason for removing the appellant's name from the list. Specifically, the appellant failed to disclose incidents in his background history which include two charges of Simple Assault. Additionally, he neglected to disclose that he was charged with Criminal Mischief Domestic Violence on January 19, 2020, in the City of East Orange. While the appellant may believe that these omissions were not intentional or material, candidates are responsible for the accuracy of their applications. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Moreover, even if there was no intent to deceive, at minimum, the appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy. See *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Fire Fighters hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). The public expects Police Officers to present a personal background that exhibits respect for the law and rules. The appellant's failure to fully disclose material information on his application falls short of that expectation.

Additionally, the appellant has an extensive driving record. In this regard, the appointing authority provided the appellant's Motor Vehicle Driving Abstract which shows the appellant has numerous motor vehicle violations that include but are not limited to: Improper Display/Fictitious Plates, Driving While Suspended, Obstruction of Passage of Other Motor Vehicle and Maintenance of Lamps. Furthermore, the appellants Motor Vehicle license was suspended three times between 2017 and 2018. Such a record is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of the duties of a Fire Fighter.

Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M1816W), City of East Orange, eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

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 19TH DAY OF JANUARY, 2022

Deirdre' L. Webster Cobb

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