



**STATE OF NEW JERSEY**

In the Matter of James Colon, Jr.,  
Fire Fighter (M1874W), Trenton

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

CSC Docket No. 2021-1822

List Removal Appeal

**ISSUED: JANUARY 21, 2022 (HS)**

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James Colon, Jr. appeals the removal of his name from the eligible list for Fire Fighter (M1874W), Trenton on the basis of an unsatisfactory driving record.

The appellant, a non-veteran, took and passed the open competitive examination for Fire Fighter (M1874W), which had a closing date of August 31, 2018. The resulting eligible list promulgated on March 29, 2019 and expires on March 28, 2022.<sup>1</sup> The appellant’s name was certified to the appointing authority on September 12, 2019. In disposing of the certification, the appointing authority requested the removal of the appellant’s name on the basis of an unsatisfactory driving record. Specifically, the appellant’s driving record included driver’s license suspensions from: June 16, 2015 to March 15, 2016;<sup>2</sup> June 5, 2016 to September 16, 2016 (nonpayment of insurance surcharge); January 13, 2017 to February 23, 2018;<sup>3</sup> and July 10, 2018 to November 16, 2018 (failure to appear/pay/comply). His driving record also reflected the following violations: no license, registration or insurance ID in possession on February 16, 2015 and July 27, 2016 and disregard of stop/yield sign on May 8, 2018. The appointing authority also provided a copy of a Standard

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<sup>1</sup> The eligible list was extended one year.

<sup>2</sup> Orders of suspension went into effect on June 16, 2015 (Parking Offenses Adjudication Act), August 7, 2015 (failure to appear), August 21, 2015 (failure to appear), December 15, 2015 (Parking Offenses Adjudication Act), and December 18, 2015 (failure to appear).

<sup>3</sup> Orders of suspension went into effect on January 13, 2017 (failure to comply with court install order), January 19, 2017 (failure to comply with court install order), January 29, 2017 (nonpayment of insurance surcharge), July 18, 2017 (Parking Offenses Adjudication Act), September 6, 2017 (Parking Offenses Adjudication Act), October 13, 2017 (Parking Offenses Adjudication Act), December 12, 2017 (Parking Offenses Adjudication Act), December 28, 2017 (Parking Offenses Adjudication Act), and January 4, 2018 (Parking Offenses Adjudication Act).

Operating Procedure (SOP) establishing guidelines for the determination of Fire Department driving positions. The SOP contained, among others, the following provisions:

- The assignment and transfer of members to permanent driving positions within the Fire Department is for the good of the department and the decision will be made by the Fire Director or his/her designee.
- A current driver abstract must be submitted in connection with a member's application for a driving position.
- A firefighter must be turned in as either a driver or tiller operator (depending upon his/her assignment) within two years of his/her appointment date. If a firefighter is not qualified as either by that date, he or she loses seniority for all days in excess of two years that he or she is not qualified. It is the member's responsibility, however, to notify his/her Battalion Chief six months of this date if he or she is not being properly trained as a driver or tiller operator within this company.
- In the event that a driving position is posted and no requests are received, the Director or his/her designee shall assign a member to the position.

On appeal to the Civil Service Commission (Commission), the appellant states that he was informed that he had been disqualified because he had two suspensions within five years. The appellant states that these suspensions were due to unpaid parking tickets. The appellant maintains that he could not pay the tickets at the time due to financial hardship, but he never intended to abandon his license; rather, he resolved both suspensions as soon as he had enough money to do so, and his license has since been in good standing. The appellant argues that the violation for no license, registration or insurance ID in possession goes hand in hand with the suspension. He states that he knew his license was suspended, but he still had to support his family and had no other way to get around as he was a single father at the time.

In response, the appointing authority indicates that it now favors the appellant's reinstatement to the eligible list. In support, it submits a letter from the Director of the Department of Fire and Emergency Services, who states the following: he reviewed the investigative file; he requested an updated driver abstract to review the appellant's current and past driving history; the appellant appears to have had "some unpaid tickets that were satisfied;" and the appellant's abstract shows his driving privileges are in good standing showing no recent incidents and violations. The Director recommends the appellant's reinstatement to the eligible list.

## CONCLUSION

*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. *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 name from an eligible list was in error.

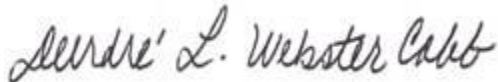
Upon review, the Commission finds that although the appointing authority appears to have initially had a valid reason to remove the appellant's name based on his driving record, on appeal the appointing authority indicates that it no longer views the appellant's driving history as being adverse to the position and requests that he be restored to the eligible list. Accordingly, it is appropriate to restore the appellant's name to the subject eligible list.

## ORDER

Therefore, it is ordered that this appeal be granted and James Colon, Jr.'s name be restored to the eligible list for Fire Fighter (M1874W), Trenton for prospective employment opportunities.

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 19<sup>TH</sup> DAY OF JANUARY, 2022



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