



STATE OF NEW JERSEY

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

In the Matter of J.E.J., Fire Fighter
(M1863W), City of Paterson

CSC Docket No. 2021-1640

Medical Review Panel Appeal

ISSUED:APRIL 11, 2022 (BS)

J.E.J., represented by Michael L. Prigoff, Esq., appeals his rejection as a Fire Fighter candidate by the City of Paterson and its request to remove his name from the eligible list for Fire Fighter (M1863W) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on October 27, 2021, which rendered a Report and Recommendation on November 11, 2021. Exceptions were filed on behalf of the appellant.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Sandra Akerman Sinclair, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as presenting with serious concerns in the areas of judgment, decision making, dutifulness, and social competence. Dr. Sinclair noted that the appellant had been terminated from four of seven jobs and had resigned from a fifth due to either unfavorable circumstances or a forced resignation. She also indicated that the appellant had not held long-term employment in a position from which he had not been terminated. Dr. Sinclair found the appellant to be a “poor historian” when it came to details surrounding any of his terminations, including whether or not he received warnings or reprimands prior to any of his terminations. Moreover, the appellant was asked if he was involved in a serious relationship and was not sure what was meant by “relationship” or “commitment.” Dr. Sinclair opined that the appellant was someone who may struggle with various interpersonal interactions.

Dr. Sinclair also noted that the appellant had been arrested four times, three of which he explained as “mistaken identity” or driver’s license suspensions and the fourth involved a domestic violence incident. Specifically, he was charged with “Assault and Criminal Mischief.” Additionally, the appellant’s driver’s license suspensions were due to unpaid parking tickets. Dr. Sinclair found a host of concerns over a decade which did not bode well for the appellant’s psychological suitability. Dr. Sinclair stated that the appellant’s psychological testing results, while revealing no overt signs of psychopathology, revealed the presence of counter-productive traits and characteristics which would likely cause difficulties for the appellant as a Fire Fighter. Consequently, Dr. Sinclair did not recommend the appellant for appointment to the subject position.

Dr. Sandra Morrow, evaluator on behalf of the appellant, carried out a psychological evaluation and opined that the appellant is well prepared for the position of Fire Fighter. Dr. Morrow indicated that the appellant works as a recording engineer and personal trainer and that for five years he supplemented his income by working intermittently for five different corporations as a Customer Service Agent in telecommunications, retail, and healthcare. Dr. Morrow found that the appellant provided reasonable explanations as to why he left each position. Specifically, the appellant attempted to negotiate shift changes four times with his employers which would allow him to continue working, and each time, he was denied. Dr. Morrow concluded that none of the appellant’s terminations were due to any difficulties interacting with others, but were “circumstantial,” involving personal illness, family and transportation issues. When these corporate jobs “ended,” Dr. Morrow indicated that the appellant “picked up the slack with his own audio company or physical fitness work.” She noted that, during a 15-year period, the appellant collected unemployment four times but for no more than 12 months.¹ Dr. Morrow opined that the appellant was hard working, responsible, and free of debt, legal problems, and psychopathology and personality disorders. Additionally, Dr. Morrow reported that the appellant studied firefighting manuals on his own and had passed firefighting examinations several times. Accordingly, within a reasonable degree of psychological certainty, Dr. Morrow could not find a reason why the appellant was not psychologically fit to serve as a Fire Fighter.

As indicated by the Panel in its report, the evaluators on behalf of the appellant and the appointing authority arrived at differing conclusions and recommendations. While Dr. Sinclair raised concerns regarding the appellant’s judgment, decision making, dutifulness, and social competence, Dr. Morrow did not have the same concerns and commented on the appellant being free from debt, legal problems, psychopathology, and personality disorders. The Panel found that the appellant’s behavior during the Panel meeting was unremarkable in that he did not show signs

¹ In the appellant’s Biographical Summary Form submitted for the pre-appointment psychological evaluation, the appellant indicated that he received unemployment in 2008, 2013, 2016, 2017, 2019, and 2021 and listed six different occasions.

of overt psychopathology, such as psychosis or thought disorder. However, the Panel expressed concerns about the appellant's several job terminations and not being able to maintain employment consistently. Although the Panel reserved judgment on the appellant's most recent termination during the pandemic, documentation submitted to Dr. Sinclair indicated two of the other terminations were due to unsatisfactory performance. Further, despite the appellant's assertions that his business ventures were his primary means of support, the Panel found no evidence of this in Dr. Sinclair's report or in the biographical summary written by the appellant. In the interview, the appellant's description of his business endeavors did not appear to be consistent with a business that could serve as someone's primary means of support. The Panel expressed concerns about the appellant's work history, and whether he was reliable and responsible enough to be psychologically suitable for a position as a Fire Fighter. Based on the foregoing, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter, indicated that the appellant was not psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should be upheld. Therefore, the Panel recommended that the appellant be removed from the subject eligible list.

Initially, it is noted that after the Panel meeting, the appellant presented written argument, objecting to the appointing authority's closing statement which was presented by one of its psychological evaluators. The evaluator had questioned the appellant's ability to address his responsibilities, given that he had recently had a second child. The appellant argued that this was not an issue in the pre-appointment psychological report as he had his first child 13 years ago, and he has "demonstrated responsibility by consistently supporting both of his children throughout their lives." He submitted that several of his terminations were due to employers' being unwilling to accommodate schedule changes for his childcare responsibilities.

Moreover, in his exceptions, the appellant asserts that the Panel misrepresented the facts regarding his work history. He notes that his fiancé has taken much of the responsibility to care for his sons and so childcare is no longer an issue. Additionally, he contends that his business experience was not mentioned on his application or the Biographical Summary Form used by the appointing authority's evaluator because "neither form requested the information." In addition to his businesses, the appellant states that he supplemented his income by "working mostly part-time at five different employers in entry-level customer service jobs." He claims he left each of these positions due to "other commitments to his family that were caused by circumstances beyond his control." The appellant further argues that none of his terminations were "based on anything other than his scheduling conflicts and his employers' unwillingness to accommodate his other responsibilities" and that there is no evidence in the Panel's report that he is in any way "psychologically unsuitable" for the position. Therefore, he requests that the Commission grant his

appeal with retroactive seniority. In support of his exceptions, the appellant submits a certification, attesting to the foregoing information.

CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the Civil Service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, *e.g.*, preventing further injury, reducing shock, and restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

The Civil Service Commission (Commission) has reviewed the Job Specification for Fire Fighter and the duties and abilities encompassed therein and finds that the negative psychological traits which were identified by the appointing authority's evaluator and supported by its test procedures and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission does not find Dr. Morrow's evaluation and the exceptions filed on behalf of the appellant to be persuasive. Contrary to the appellant's assertions, the Commission notes that the record shows that two of the appellant's terminations were due to unsatisfactory performance as reported by the appellant. In this regard, on the appellant's Biographical Summary Form submitted for the pre-appointment psychological evaluation, the appellant, in relevant part, responded to the question asking candidates if they have ever been "fired, left employment under unfavorable circumstances, by mutual agreement following allegations of misconduct, unsatisfactory performance or left employment after being told [that they] might be fired" as follows: "Bed Bath & Beyond Fired, 2015-2016, Customer Service Rep, Full Time, Terminated Unsatisfactory performance," and Cablevision Fired 2011-2013, Customer Service Rep, Full Time, Terminated, Unsatisfactory performance." Further, it is emphasized that the appellant indicated "Full Time" employment, as opposed to "working mostly part-time at five different employers in entry-level

customer service job.” He also listed another “Full Time” job that he was terminated from due to childcare and illness of his son’s mother. Therefore, the appellant’s statements regarding terminations for unsatisfactory performance are inconsistent. In addition, the Commission agrees with the Panel’s assessment that the appellant’s description of his business endeavors do not appear to be consistent with a business that could serve as someone’s primary means of support nor did the appellant submit any corroborating evidence to support this claim, such as tax information. Accordingly, the Commission shares the Panel’s concerns about the appellant’s work history, and whether he would be reliable and responsible to serve as a Fire Fighter. Furthermore, the appellant’s inconsistent statements cast doubt on his veracity and integrity for the position sought.

It is emphasized that, prior to making its Report and Recommendation, the Panel conducts an independent review of all of the raw data presented by the parties as well as the raw data and recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations, which are based firmly on the totality of the record presented to it and, as such, are not subjective. The Panel’s observations regarding the appellant’s behavioral record, employment history or lack thereof, responses to the various assessment tools, and appearance before the Panel are based on its expertise in the fields of psychology and psychiatry, as well as its experience in evaluating hundreds of appellants. The Commission finds that the record supports the findings of the Panel and the appointing authority’s evaluator of the appellant’s problematic behaviors. Accordingly, the Commission agrees with the Panel’s assessment that the appellant is not psychologically suitable for employment as a Fire Fighter.

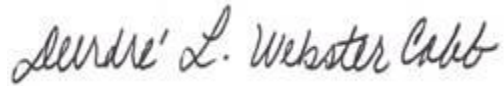
Therefore, having considered the record and the Panel’s Report and Recommendation issued thereon and the exceptions filed on behalf of the appellant, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel’s Report and Recommendation and denies the appellant’s appeal.

ORDER

The Commission finds that the appointing authority has met its burden of proof that J.E.J. is psychologically unfit to perform effectively the duties of a Fire Fighter and, therefore, the Commission orders that his name be removed from the subject eligible list.

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 6TH DAY OF APRIL, 2022



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