



**STATE OF NEW JERSEY**

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

In the Matter of R.B., Fire Fighter  
(M1856W), City of Newark

CSC Docket No. 2022-904

Medical Review Panel Appeal

**ISSUED: December 21, 2022 (BS)**

R.B., represented by Ronald J. Ricci, Esq., appeals his rejection as a Fire Fighter candidate by the City of Newark and its request to remove his name from the eligible list for Fire Fighter (M1856W) 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 May 18, 2022, which rendered its Report and Recommendation on May 18, 2022. Exceptions and cross exceptions were filed on behalf of the parties.

The report by the Panel discusses all submitted evaluations. It indicates that Drs. Nicole Rafanello and Christopher King, evaluators on behalf of the appointing authority, conducted a psychological evaluation of the appellant and characterized the appellant as presenting as neither appropriate nor free from having psychological impairments that could hinder his ability to satisfactorily and safely carry out the function of a Fire Fighter. Drs. Rafanello and King assessed this by a review of collateral records, objective psychological measures known to predict public safety personnel functioning, and the clinical interview. In particular, the appellant presented with concerns regarding phobic behavior and integrity issues that would interfere with essential job functions. The appellant also presented with some moderate interpersonal risk factors concerning assertiveness and social competence, and issues with adaptability, rigidity, and conscientiousness. Consequently, within a reasonable degree of psychological certainty, Drs. Rafanello and King did not find the appellant psychologically suitable for appointment to the subject position.

Dr. Sarah DeMarco, evaluator on behalf of the appellant, carried out a psychological evaluation and did not share the concerns expressed by the appointing authority's evaluators. Dr. DeMarco found no compelling data that rose to the level of clinical significance that would indicate that the appellant is not at least minimally psychologically suitable to serve in the subject position. Thus, consistent with the scope of a pre-employment psychological evaluation, Dr. DeMarco could not find a reason why the appellant was not psychologically suitable to move forward with the employment process.

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 Drs. Rafanello and King raised concerns regarding the appellant's integrity and phobia, as well as interpersonal risks in the areas of social competence, assertiveness, conscientiousness and rigidity, Dr. DeMarco did not share these concerns. The Panel found that the appellant's presentation before it was consistent with the findings of Drs. Rafanello and King as indicated in their report. The appellant was vague when asked about his driver's license and moving violations and indicated he could not recall because "it was a long time ago." The employment information he provided was also inconsistent with the records provided. The appellant stated that he failed to file his taxes in 2019 because he "did not have stable employment;" however, the record indicated that he was employed at that time. To the Panel, it appeared that he either did have stable employment and chose not to file his taxes or that the information provided on the self-reported work history was not truthful. This is consistent with the integrity issues noted in the report of Drs. Rafanello and King. Moreover, the Panel noted that the appellant had a medical bill that was sent to collections. The appellant reported that he did not have the money and decided not to pay the bill. When the Panel asked whether he contacted the office to set up a payment plan, he stated that he did not and ignored the bill instead of handling it. The Panel found the appellant exhibited poor judgment and a lack of maturity and responsibility, consistent with the findings of the pre-employment psychological evaluation. The Panel noted that the appellant was seen during the Panel meeting, which was conducted by way of videoconference, wearing a t-shirt and petting his dog, behaviors which the Panel found consistent with poor judgement. The Panel noted that Fire Fighters are held to higher standard than others. They must be able to demonstrate integrity, good judgment, and conscientiousness. 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.

In his exceptions, the appellant argues that although Dr. King was allowed to speak during the Panel meeting, he had not been advised that Dr. DeMarco could

have been allowed to testify. In addition, the appellant asserts that too much emphasis was placed on his confusion surrounding his actual dates of employment, something “people regularly confuse,” and that the Panel ignored the fact that he clearly described his places of employment and the nature of his employment. He contends that this confusion goes to his intelligence rather than his psychological abilities to do the job and that a separate test is given to determine his intelligence to perform the job of a Fire Fighter. Additionally, the appellant claims he was a young man without sufficient income. He maintains that he did file his 2019 taxes, but that it was just untimely. Finally, the appellant argues that the fact his dog entered the room during the Panel meeting should not be held against him, nor the outfit he wore. He lives in a small apartment which did not give him the opportunity to lock the dog in a separate room. The appellant requests that the “Panel’s decision be vacated, and a new panel be scheduled” to review his appeal.

In its cross exceptions, the appointing authority, represented by France Casseus, Esq., indicates that the parties were emailed information regarding the Panel meeting and were requested to provide the names and email addresses of “all individuals” who would be attending. Therefore, the appointing authority contends that it should have come as no surprise that Dr. King would be attending since it submitted the requested information. The appointing authority argues that the appellant’s exceptions disregarded the fact that the Panel’s recommendation was based on an evaluation of the information submitted by both parties. The appointing authority maintains that the appellant’s removal from the subject eligible list was based on risk factors such as integrity, interpersonal risks, and a lack of maturity and awareness rather than social and/or academic consideration that the appellant argues in his exceptions. Accordingly, the appointing authority submits that the removal be upheld.

## 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 evaluators 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. DeMarco's evaluation and the exceptions filed on behalf of the appellant to be persuasive. Contrary to the appellant's attempts to explain, the Commission notes that the record shows concerns regarding integrity as well as interpersonal risk factors such as social competence, conscientiousness and rigidity. Accordingly, the Commission shares the Panel's concerns that the appellant's presentation before it was consistent with the findings of the appointing authority's evaluators as indicated in their report 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 evaluators. It is noted that the appellant had the opportunity for Dr. DeMarco to attend the Panel meeting if he chose to have her present. Regardless, the Panel was provided with Dr. DeMarco's evaluation of the appellant. Accordingly, the Commission agrees with the Panel's assessment that the appellant is not psychologically suitable for employment as a Fire Fighter.

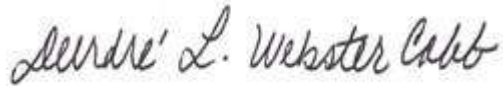
Therefore, having considered the record and the Panel's Report and Recommendation issued thereon and the exceptions and cross exceptions filed by the parties, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's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

**ORDER**

The Commission finds that the appointing authority has met its burden of proof that R.B. 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 21<sup>st</sup> DAY OF DECEMBER, 2022



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