



**STATE OF NEW JERSEY**

In the Matter of Equipment Operator  
(M0994A), North Arlington

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

CSC Docket No. 2023-346

Appointment Waiver

**ISSUED: December 7, 2022 (AMR)**

North Arlington requests permission not to make an appointment from the March 16, 2020 certification for Equipment Operator (M0994A), North Arlington.

The record reveals that North Arlington provisionally appointed Leonard Aluotto, pending open competitive examination procedures, to the subject title, effective July 9, 2015. An examination was announced with a closing date of October 21, 2019, that resulted in a list of four eligibles with an expiration date of March 11, 2023.<sup>1</sup> It is noted Aluotto was found ineligible for the subject examination and therefore did not appear on the certification. He is also no longer serving in the subject title. Furthermore, there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification and requested a waiver of the appointment requirement, stating that the title of Equipment Operator was “disapproved,” and Aluotto “was returned to his previous title” of Laborer 1.<sup>2</sup> Moreover, it indicated that an anticipated retirement in the subject title never occurred, which would have created a need for an appointment.

<sup>1</sup> It is noted that the current eligible list for Equipment Operator (M0994A), North Arlington, now consists of five eligibles due to *In the Matter of Leonard Aluotto* (CSC decided June 3, 2020), wherein Aluotto was granted his appeal of ineligibility and added to the eligible list.

<sup>2</sup> It is noted that although Aluotto was provisionally appointed to the title of Equipment Operator, the appointing authority corrected the appellant’s appointment in the County and Municipal Personnel System to reflect that he was actually appointed as a Laborer 1 on July 9, 2015.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. Despite the opportunity, the appointing authority did not provide any additional information for the Civil Service Commission to review.

## CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Aluotto. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that Aluotto's title of Equipment Operator was "disapproved," and he was returned to his "previous title" of Laborer 1. The appointing authority also explained that no other appointments were made as an anticipated retirement, which would have created a need for this appointment, never occurred. Therefore, there was no longer a need to fill the position. Thus, in conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needed to fill the Equipment Operator position after it appointed a provisional employee to the subject title does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

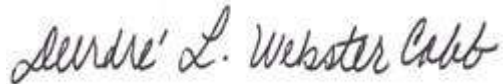
## ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing

authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 7<sup>TH</sup> DAY OF DECEMBER, 2022



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