AND CONTRACT

**ISSUED: JULY 5, 2022 (RAM)** 

STATE OF NEW JERSEY : : FINAL ADMINISTRATIVE ACTION : OF THE : CIVIL SERVICE COMMISSION
Examination Appeal

Harry Back, Jr., appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirement for the open competitive examination for Beach Supervisor (M0601C), City of Cape May.

By way of background, the announcement for the subject examination was issued on November 1, 2021 and was open to candidates who met the residency requirement and who possessed three years of experience in the maintenance of beaches and in the cleaning and repair of beach structures and beach related equipment, with two years of experience as a Lifeguard, and of those two years, one year of which must have been in a supervisory capacity as of the November 22, 2021 closing date. It is noted that the appellant was the only applicant who filed for the subject examination. Consequently, the examination was cancelled, effective February 12, 2022, due to a lack of qualified applicants.

On his application, the appellant listed his provisional work experience in the subject title from July 2020<sup>1</sup> to November 2021 and his prior work experience as a "Lieutenant" from August 1991 to September 2012 and a Lifeguard from June 1987 to August 1991 with the City of Cape May. In his provisional and "Lieutenant" position, the appellant indicated that he supervised. It is noted that, prior to his appointment to the subject title in February 2021, agency records indicate that the

<sup>&</sup>lt;sup>1</sup> Agency records indicate that the appellant was appointed provisionally pending open competitive examination procedures as a Beach Supervisor effective February 8, 2021.

appellant was hired as a temporary appointee to the title of Recreation Aide from May 1998 to July 1988, October 1988 to May 1989, and April 1993 to February 1994.

Upon a review of the appellant's application, Agency Services found no indication of beach maintenance, nor supervisory experience as a Lifeguard, on the appellant's application. The appellant also did not submit a resume. Thus, Agency Services determined that the appellant lacked the applicable experience.

On appeal to the Civil Service Commission (Commission), the appellant states that he has 28 years of experience with the City of Cape May, which includes maintaining the beaches and cleaning and repairing beach structures and beach related equipment. Further, he states that 24 of his 28 years have been in a supervisory capacity which includes being a Lifeguard supervisor.

## CONCLUSION

N.J.A.C. 4A:4-2.3(b)2 provides that applicants shall meet all requirements specified in the open competitive examination announcement by the closing date. N.J.A.C. 4A:4-2.1(g) provides that the Commission may request clarifying information from an applicant. For example, information submitted on appeal pertaining to duties in a given position that expands or enlarges information previously submitted is considered clarifying and is accepted.

In the instant matter, Agency Services determined that the appellant was not eligible for the subject examination based on the review of his application. As such, it found that the appellant lacked the three years of required experience as of the November 22, 2021 closing date. However, a review of agency records indicates that the appellant possessed 10 months of provisional experience prior to the examination closing date. The record also indicates that the appellant continues to serve provisionally in the subject title. Moreover, the appellant has clarified the duties of his provisional position and his prior positions, which provides him applicable experience. In that regard, it is noted that in his title of "Lieutenant," he performed applicable Lifeguard supervisory duties. Further, as previously noted, the appellant was the only applicant who filed for the examination which had been cancelled effective February 12, 2022.

Under these circumstances, the Commission finds that the appellant met the experience requirement by the examination closing date and should be admitted to the subject examination. In that regard, in accordance with *N.J.A.C.* 4A:4-2.1(g), the Commission will accept clarification of the appellant's work experience submitted on appeal. Absent accepting clarification of the appellant's work experience after the examination closing date, no other eligible candidate can be appointed, as the subject examination had been cancelled. It is emphasized that the purpose of the Civil Service system is best served when more rather than fewer individuals are presented

with appointments and/or advancement opportunities. See Communications Workers of America v. New Jersey Department of Personnel, 154 N.J. 121 (1998).

## ORDER

Therefore, it is ordered that this appeal be granted, the examination cancellation be rescinded, and the appellant's application be processed for prospective employment opportunities only.

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 29<sup>TH</sup> DAY OF JUNE 2022

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Deirdré L. Webster Cobb Chairperson Civil Service Commission

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