



STATE OF NEW JERSEY

In the Matter of John Eugenio, Fire
Fighter (M1818W), Elizabeth

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

CSC Docket No. 2022-2209

List Removal Appeal

ISSUED: JULY 25, 2022 (PS)

John Eugenio, represented by Michael L. Prigoff, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M1818W), Elizabeth, on the basis that he resided outside of the residency scope.

The appellant took the open competitive examination for Fire Fighter (M1818W), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant failed to prove that he lived in Elizabeth continuously from the closing date through the date of the certification. Specifically, it indicated that at the time of the appellant’s application, his auto license showed that his address was listed as Jersey City as of the August 31, 2018, closing date for the subject examination. Additionally, it stated that the Motor Vehicle Services search of auto licenses changes shows a Jersey City address as of October 15, 2021.

On appeal, the appellant states that during the time of taking his civil service exam he resided in Elizabeth and the reason his driver’s license has an address of Jersey City was that he resided there during his High School years. Additionally, the appellant submits a copy of his driver’s license with an expiration date of March 5, 2026, and 2019 W-2 from Hudson Pool Management and Panera LLC showing his address in Elizabeth. Additionally, he provides copies of his 2021 tax return, a 2019

bill from Honda Financial Services dated November 13, 2019, an enrollment at Union County College Fall Semester 2019 and an American Express bill dated March 10, 2022. All the material have Elizabeth addresses.

In response, the appointing authority, represented by Robert J. Lenahan Jr. Esq., relies on its background report which indicates that the appellant resided in Jersey City and attaches copies of 2019 and 2020 NJ-1040 Income Tax forms with a Jersey City address. It also stated that his Probationary Auto License and the Motor Vehicle Address Change History Response dated October 15, 2021, had an address of Jersey City. It further argues that when the appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the appointment. It asserts that the applicant had filled out Page 5 and 6 of his application listing addresses over the last 10 years whereas he stated he lived in Elizabeth from August 2015 to present. Additionally, it contends that the appellant's proofs are inadequate to rebut the City's position because they are contradictory and unreliable especially in light of the appellant's own answers in the application that he resided in both Jersey City and Elizabeth at the same time. Further it questions the fact that the applicant claimed to be an owner of the Elizabeth residence, living at two different places at the same time. Finally, it contends that the appellant was in violation of Motor Vehicle Commission regulations by either willfully applying for a driver's license using a false address or failing to correct it within the time required.

CONCLUSION

N.J.A.C. 4A:4-2.11(e)1 provides that when an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.

N.J.A.C. 4A:4-2.11(c) provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations.
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;

4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

N.J.A.C. 4A:4-2.11(h) provides that an applicant seeking to appeal a residency determination shall have the burden of proving his or her residency.

In the instant matter, residency in Elizabeth was required from the August 31, 2018, closing date through appointment. Although the appellant claims that he has been a resident in Elizabeth since 2015, the appellant's submissions do not prove the appellant had **continuous** residency in Elizabeth from the August 31, 2018, closing date. According to the appellants 2019 and 2020 NJ-1040 Income Tax forms they listed a Jersey City address. Additionally, his Probationary Auto License and the Motor Vehicle Address Change History Response dated October 15, 2021, all list a Jersey City address. Further, he filled out Page 5 and 6 of his application listing addresses over the last 10 years whereas he stated he lived in Elizabeth from August 2015 to present, which is inconsistent with the documentation presented above. While he has presented *some* documentation of Elizabeth residency from the closing date forward, the contradictory evidence presented by the appointing authority is sufficient to put his claim of continuous residency in serious question, especially given the appellant's lack of explanation as to the appointing authority's documentation. In this regard, an individual can only have one legal residence.¹ As such, for the purposes of *N.J.A.C.* 4A:4-2.11(c), the Civil Service Commission finds that the preponderance of the evidence demonstrates that the appellant did not continuously reside in Elizabeth as required. Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M1818W) eligible list.

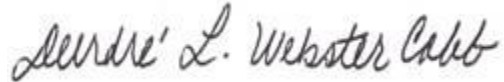
ORDER

Therefore, it is ordered that this appeal be denied.

¹ The different address on the appellant's tax returns from his purported address is particularly concerning.

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 DAY OF



Deirdré L. Webster Cobb
Chairperson
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