



STATE OF NEW JERSEY

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

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

CSC Docket No. 2023-376

Request for Reconsideration

ISSUED: January 18, 2023 (PS)

John Eugenio, represented by Michael L. Prigoff, Esq. requests reconsideration of the final decision of the Civil Service Commission (Commission), rendered on July 25, 2022, which upheld the removal of his name from the Fire Fighter (M1818W), City of Elizabeth, eligible list on the basis that he resided outside of the residency scope.

By way of background, the Commission denied the petitioner’s original appeal of his removal from the list on the basis that he resided outside of the residency scope as of the August 31, 2018, closing date. Initially, the Commission rejected the petitioner’s arguments that he had been a resident of Elizabeth since 2015 since his submissions did not establish that he had **continuous** residency. In this regard, according to the petitioner’s 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 wherein he stated he lived in Elizabeth from August 2015 to present, which is inconsistent with the documentation presented above. While he presented *some* documentation of Elizabeth residency from the closing date forward, the contradictory evidence presented by the appointing authority was sufficient to put his claim of continuous residency in serious question, especially given the petitioner’s lack of explanation as to the appointing authority’s documentation. In this regard, the Commission noted that an individual can only have one legal residence.

In his request for reconsideration, the petitioner contends that a clear material error has occurred. Specifically, the petitioner argues that during the period between 2015 and 2019 he spent time living with his father in Elizabeth which explains why he answered the question on his application the way he did: “Lived with both parents when separated, going to UCC.” In this regard, he asserts that since June of 2019, two months before the closing date of the exam (August 31) he made his father’s residence in Elizabeth his primary residence and has lived there continuously ever since. He asserts that he indicated on his application that he lived at the Elizabeth address since 2015 since he had spent time residing there and the question asked for all residences he had lived for the past 10 years. The petitioner maintains that he never claimed that he owned the Elizabeth house, rather the application gave two options: “rent” or “own” and since the family owned the house, he checked that box. He also maintains that his probationary driver’s license and Selective Service registration reflected his mother’s address in Jersey City because they were issued when he was in high school and before he lived with his father. The petitioner argues that his W-2 forms for 2019 and 2020 reflected his true address in Elizabeth but his mother brought his tax information to her accountant who mistakenly used her Jersey City address for the tax returns themselves, for years when he was in high school and starting at Union County College. The petitioner further attached a Planet Honda receipt with a date of July 4, 2019 and a receipt for GAP insurance with an Elizabeth address.

The appointing authority asserts that the petitioner’s claims that the certifications submitted provide new evidence is inaccurate as all of the information in the certifications was known by and available to the petitioner at the time he filed his appeal, yet he did not provide that information at the time. It argues that the Planet Honda and Honda Financial Service receipts for GAP Insurance are submitted as new evidence but were available when the petitioner filed his original appeal and cannot be considered “new” evidence. Further, this is not proof of continuous residency in Elizabeth from the August 31, 2018, closing date but at best shows the petitioner received mail at that address while possibly residing in Jersey City in July 2019. Additionally, it argues that the request for reconsideration should be denied because the new certification is not “new evidence” and the petitioner’s attorney’s admission that he neglected to provide the evidence in a timely manner is not a valid reason for the late filing.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the

reasons that such evidence was not presented at the original proceeding. A review of the record in the instant matter reveals that reconsideration is not justified.

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.

In the instant matter, the petitioner has not met the standard for reconsideration. In the prior matter, the Commission acknowledged that the appointing authority had a valid reason for removing the petitioner's name from the list. Specifically, the petitioner did not maintain continuous residency in Elizabeth from the August 18, 2018 closing date. Moreover, the Commission finds that there is no "new" evidence presented to show that the petitioner had continuous residency in Elizabeth and the documentation presented is inconsistent with the documentation presented above. Further, contrary to the petitioner's assertion, having the use of two addresses during the time in question puts his claim of continuous residency in serious question. Additionally, the petitioner has not demonstrated in any way that he has had continuous residency since the closing date of the exam. Therefore, the petitioner has not demonstrated that a material error has occurred nor presented new evidence which would change the outcome of his case. Accordingly, the Commission finds no grounds on which to grant reconsideration of its prior decision.

ORDER

Therefore, it is ordered that this request for reconsideration be denied.

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 18TH DAY OF JANUARY, 2023



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