



STATE OF NEW JERSEY

In the Matter of Andrew Juttner,
Plainfield

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

CSC Docket No. 2022-2548

Administrative Appeal

ISSUED: February 1, 2023 (ABR)

Andrew Juttner, a Battalion Fire Chief with Plainfield, appeals the provisional appointment of Walter Thompson to the title of Deputy Fire Chief, Plainfield.

By way of background, Plainfield’s prior promotional list for the title of Deputy Fire Chief (PM3057W), which contained three names, promulgated on August 29, 2019. A certification, containing all three eligibles was issued on December 19, 2019 (PL191868). The subject eligible list was exhausted after the eligible ranked first was appointed from the foregoing certification, effective February 1, 2020, and the eligibles ranked second and third were appointed from the foregoing certification, effective April 14, 2020. Thereafter, the appointing authority provisionally appointed Walter Thompson to the title of Deputy Fire Chief, effective November 3, 2020. A promotional examination (PM5878D) was announced for the subject title on December 1, 2022 with an application deadline of December 21, 2022.

On appeal, the appellant alleges that Plainfield violated Civil Service law and rules by waiting until February 2022 to timely notify this agency that it made a provisional appointment to the title of Deputy Fire Chief in November 2020. He maintains that the appointing authority intentionally delayed reporting this provisional appointment to this agency in order to keep their preferred candidate in the position for an extended time and to prevent the appellant from taking a promotional examination for the title of Deputy Fire Chief. Additionally, he avers that the length of the subject provisional appointment was unlawful because it

exceeded one year in length. He also complains that the appointing authority's actions denied him an opportunity to participate in the selection and appointment process and test for the position of Deputy Chief and he alleges that the appointing authority is "offering consideration to induce retirement of a Captain as a Provisional Deputy Chief."

In response, the appointing authority, represented by Kathryn V. Hatfield, Esq., argues that the appellant's allegations are without merit. It submits that in August 2020, two incumbent Deputy Fire Chiefs retired from its employ. At that time, it contacted this agency's Local Certifications Unit to request a new examination for the subject title and to inquire about a certification waiver. It states that the Local Certifications Unit advised it at that time that the appointing authority could provisionally appoint a qualified candidate from a lower title, as there was no active eligible list. Based upon this advice, the appointing authority provisionally appointed Walter Thompson to the title of Deputy Fire Chief, effective November 3, 2020. It adds that it made efforts in January 2022 to get a promotional examination for the title of Deputy Fire Chief and that it learned in March 2022 that an examination would be scheduled for Fall 2022. Thereafter, in September 2022, it was advised that a promotional examination announcement would be issued in December 2022. Therefore, the appointing authority contends that the facts and the record establish that it did not have any intent to prevent eligible candidates from taking a promotional examination for the title of Deputy Fire Chief. The appointing authority submits copies of its correspondence with this agency's Local Certifications Unit between August 2020 and November 2022 in support of its contentions.

CONCLUSION

N.J.S.A. 11A:4-13(b) provides in no case shall any provisional appointment exceed a period of 12 months. *N.J.A.C.* 4A:4-1.10(a) states that all initial and subsequent appointments, promotions, and related personnel actions in the career, unclassified, or senior executive service are subject to the review and approval of the Chairperson or designee. *N.J.A.C.* 4A:4-1.10(b) indicates that following submission and review of personnel actions, the appointing authority shall be notified by an appropriate representative of the Civil Service Commission whether the action has been approved or disapproved and the reasons for any disapproval. The appointing authority shall provide written notice to all affected employees of such personnel actions.

In the instant matter, the record establishes that the appointing authority provisionally appointed Walter Thompson to the subject title, effective November 3, 2020, but that Thompson's provisional appointment was not communicated to this agency until January 2022 and was not recorded in the County and Municipal Personnel System (CAMPS) until February 17, 2022. On March 24, 2022, this agency confirmed to the appointing authority that a promotional announcement would be

issued as part of the next examination cycle in December 2022 and the PM5878D announcement was issued on December 1, 2022 with an application deadline of December 21, 2022. The record does not evidence the appointing authority acted deliberately to delay the examination process. Additionally, it is noted that the appellant has not requested a specific remedy for the claimed violations of the *N.J.S.A.* 11A:4-13(b). However, a promotional examination has been announced for the subject position¹ and agency records do not indicate that Thompson filed for the PM5878D examination. Since CAMPS indicates that Thompson continues to provisionally serve in the subject title, pursuant to *N.J.A.C.* 4A:4-1.5(b), the appointing authority must return Thompson to his permanent title of Fire Captain within 30 days of receipt of this decision.

Finally, the Commission has concerns with the appointing authority's delayed reporting of Thompson's provisional appointment in CAMPS and reminds the appointing authority that, in accordance with *N.J.A.C.* 4A:4-1.10(b), it must promptly notify this agency of any personnel actions requiring changes to the CAMPS records of its employees, including provisional appointments.

ORDER

Therefore, it is ordered that this appeal be denied. It is further ordered that the appointing authority return Walter Thompson to his permanent title of Fire Captain within 30 days of receipt of this decision. The appointing authority shall submit evidence of its actions to the Division of Human Resources Information Services.

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 1ST DAY OF FEBRUARY, 2023



Allison Chris Myers
Acting Chairperson
Civil Service Commission

¹ The appellant was not among the two applicants who applied for the subject examination.

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Andrew Juttner
Abby Levenson
Kathryn V. Hatfield, Esq.
Division of Agency Services
Division of Human Resources Information Services
Records Center