



STATE OF NEW JERSEY

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

In the Matter of J.P., Fire Fighter
(M1813W), Clifton

CSC Docket No. 2022-2389

Medical Review Panel Appeal

ISSUED: May 24, 2023 (HS)

J.P., represented by Robert K. Chewning, Esq., appeals his rejection as a Fire Fighter candidate by the Clifton and its request to remove his name from the eligible list for Fire Fighter (M1813W) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on September 23, 2022, which rendered its Report and Recommendation on October 4, 2022. Exceptions and cross exceptions were filed on behalf of the parties.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Han Zhang Liang, evaluator on behalf of the appointing authority, conducted a psychological evaluation of the appellant and found that the appellant presented as overly anxious during his interview; had an “odd” presentation during his evaluation; and had “concrete thinking” and was “very poor at reading social cues.” Dr. Liang also found that the appellant was terminated in 2017 from a previous job due to inappropriate behavior after he was previously suspended for one week when he had agreed with “something” his co-worker said about their supervisor. When describing the incident that caused his termination, the appellant stated, “[T]hen my emotions got out of hand again” and “I let my anger get out of hand. I kicked a large box of empty cardboard, and they gave me a warning.” He also stated, “They told me that [I] scared my co-workers.” The appellant also reported that he attempted to become a volunteer Fire Fighter but was not accepted into that role, being told that he would not be able to handle the stress of the position; that he had no friends due to his

Asperger's syndrome; and that he was suspended once in high school after an incident in which he hit another student with a roll of photo paper. Dr. Liang found that the appellant had difficulty with interpersonal functioning. Overall, Dr. Liang concluded that there was substantial evidence that the appellant did not have the requisite interpersonal functioning, stress tolerance, emotion regulation, and overall judgment to be a Fire Fighter.

Dr. Robert Kanen, evaluator on behalf of the appellant, carried out a psychological evaluation and did not share the concerns expressed by the appointing authority's evaluator. Dr. Kanen found that the appellant earned an Associate's Degree in Applied Science in 2015; had no history of "temper control problems;" had no history of mental health counseling; and had no history of arrests or substance abuse problems. The appellant admitted he made a mistake in the situation that led to his termination from the previous job in 2017. He is doing stock work and pulling orders at his current job, which he has had since 2017. Dr. Kanen found that the appellant had the cognitive ability to function as a Fire Fighter and provided responses to personality tests that produced results indicating he fell into the category of "likely to recommend for employment in a public safety/security position." Dr. Kanen concluded that the appellant was psychologically suitable for employment as a Fire Fighter.

As indicated by the Panel in its report, the evaluators on behalf of the appointing authority and appellant arrived at differing conclusions and recommendations. While Dr. Liang raised concerns regarding the appellant's interpersonal functioning, stress tolerance, emotion regulation, and overall judgment, Dr. Kanen did not share these concerns. The Panel found that the appellant's presentation before it was consistent with the findings of Dr. Liang as indicated in his report. The appellant's responses to questions posed to him were tense and often did not provide the amount of detail that was expected. He stated, on more than one occasion, that he did not want to discuss in more detail the concerns that were being addressed with him. Given the appellant's history of interpersonal difficulties and stress management difficulties, his presentation during the meeting appeared to validate the concerns raised in Dr. Liang's report completed on behalf of the appointing authority. At this point in his life, the appellant had not demonstrated to the Panel an ability to appropriately interact with peers and manage stress in a position that involves the stressors that are often associated with work as a Fire Fighter. Based on the foregoing, the Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Fire Fighter, indicated that the appellant was not psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should be upheld. Therefore, the Panel recommended that the appellant be removed from the subject eligible list.

In his exceptions, the appellant argues that he should be found psychologically fit for the position of Fire Fighter based on the test results and conclusions drawn by Dr. Kanen. He also argues that the Panel's recommendation failed to consider his entire employment history, which establishes that he has interacted with co-workers and customers and has managed the stressors of his employment and other responsibilities. The appellant contends that the Panel and the appointing authority appeared to rely on his 2017 termination from employment in support of their claim that he does not have the interpersonal skills or stress management abilities to be a Fire Fighter. This conclusion, in the appellant's view, ignores subsequent facts that either disprove the theory or show that he has appropriately learned from the incident by gaining the necessary interpersonal skills and stress management skills necessary to be fully employed as a Fire Fighter. In the alternative, the appellant requests that he be referred for an independent psychological evaluation because the appointing authority and Panel have left doubt as to what duties he would be unable to perform.

In its cross exceptions, the appointing authority, represented by Rebecca L. Maioriello, Esq., maintains that the fact the appellant has held a job since 2017 doing stock work and pulling orders and has interacted with co-workers and customers on a limited basis does not amount to a demonstration of an adequate level of peer management and stress management required of a Fire Fighter. In addition, the appointing authority contends that the appellant has wrongfully argued that the Panel failed to consider his entire employment history. Rather, according to the appointing authority, the Panel merely highlighted the fact that when describing the incident that caused his termination, the appellant admitted to letting his emotions get out of hand "again." At a minimum, his employment history over the years since the termination was considered. Further, the appointing authority highlights that Fire Fighters may be required to perform rescue operations; maintain radio communications with emergency personnel; and interview people at the scene of a fire and write down responses. Any psychological condition or defect, such as the inability to appropriately interact with peers and manage stress, would prevent the efficient performance of said duties. The appointing authority requests that the Panel's findings be left undisturbed.

CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the Civil Service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and

apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, *e.g.*, preventing further injury, reducing shock, and restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

The Civil Service Commission (Commission) has reviewed the Job Specification for Fire Fighter and the duties and abilities encompassed therein and finds that the negative psychological traits which were identified by the appointing authority's evaluator and supported by its test procedures and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The Commission does not find Dr. Kanen's evaluation and the exceptions filed on behalf of the appellant to be persuasive. In this regard, the Commission notes that the record does show concerns regarding interpersonal functioning and stress management. The appellant takes issue with the apparent reliance by the Panel and appointing authority on his 2017 termination from employment in support of their claim that he does not have the interpersonal skills or stress management abilities to be a Fire Fighter. However, the record reflects that the Panel noted more than just the fact that the appellant had been terminated. Rather, in discussing the findings of the appointing authority's evaluator, the Panel specifically noted that when the appellant described the incident that caused his termination, he stated, "[T]hen my emotions got out of hand again" and "I let my anger get out of hand. I kicked a large box of empty cardboard, and they gave me a warning." He also stated, "They told me that [I] scared my co-workers." The appellant also suggests that the Panel failed to take his entire employment history into account. However, in discussing Dr. Kanen's findings, the Panel specifically noted that the appellant had been doing stock work and pulling orders at his current job since 2017. Thus, there is no substantive reason to doubt that the Panel did not at least consider the appellant's post-termination employment. Accordingly, the Commission shares the Panel's concerns that the appellant's presentation before it was consistent with the findings of the appointing authority's evaluator as indicated in his report and whether he would be reliable and responsible to serve as a Fire Fighter.

It is emphasized that, prior to making its Report and Recommendation, the Panel conducts an independent review of all of the raw data presented by the parties as well as the raw data and recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations, which are based firmly on the totality of the record presented to it and, as such, are not

subjective. The Panel's observations regarding the appellant's behavioral record, employment history or lack thereof, responses to the various assessment tools, and appearance before the Panel are based on its expertise in the fields of psychology and psychiatry, as well as its experience in evaluating hundreds of appellants. The Commission finds that the record supports the findings of the Panel and the appointing authority's evaluator. The Commission finds no compelling reason to refer the appellant for an independent psychological evaluation. Accordingly, the Commission agrees with the Panel's assessment that the appellant is not psychologically suitable for employment as a Fire Fighter.

Therefore, having considered the record and the Panel's Report and Recommendation issued thereon and the exceptions and cross exceptions filed by the parties, and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation and denies the appellant's appeal.

ORDER

The Commission finds that the appointing authority has met its burden of proof that J.P. is psychologically unfit to perform effectively the duties of a Fire Fighter and, therefore, the Commission orders that his name be removed from the subject eligible list.

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 24TH DAY OF MAY, 2023

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