



STATE OF NEW JERSEY

In the Matter of G.B., Fire Fighter
(M1848W), Linden

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

CSC Docket No. 2023-1001

Medical Review Panel Appeal

ISSUED: July 19, 2023 (AMR)

G.B., represented by Craig S. Gumpel, Esq., appeals his rejection as a Fire Fighter candidate by Linden and its request to remove his name from the eligible list for Fire Fighter (M1848W)¹ 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 May 5, 2023, which rendered its Report and Recommendation on May 5, 2023. No exceptions were filed by the parties.

The report by the Panel discusses all submitted evaluations. 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 is psychologically fit to perform effectively the duties of the position sought, and therefore, the action of the appointing authority should not be upheld. Accordingly, the Panel recommended that the appellant be reinstated to the eligible list.

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

¹ It is noted that the eligible list promulgated on March 29, 2019 and expired on April 19, 2023.

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.

Having considered the record, including the Job Specification for Fire Fighter and the duties and abilities encompassed therein, and the Panel's Report and Recommendation issued thereon, and having made an independent evaluation of the same, the Civil Service Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation.

ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that G.B. is psychologically unfit to perform effectively the duties of a Fire Fighter and, therefore, the Civil Service Commission orders that the eligible list for Fire Fighter (M1848W), Linden, be revived and the appellant's name be restored. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans with Disabilities Act (ADA), 42 *U.S.C.A.* § 12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of his working test period, the Civil Service Commission orders that the appellant be granted a retroactive date of appointment to September 2, 2022, the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based

purposes only. However, the Civil Service Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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 19TH DAY OF JULY, 2023

Allison Chris Myers

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Chairperson
Civil Service Commission

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