



**STATE OF NEW JERSEY**

In the Matter of Emil Imbriano,  
Fire Fighter (M1855W),  
New Brunswick

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

CSC Docket No. 2023-808

List Removal Appeal

**ISSUED: June 7, 2023 (PS)**

Emil Imbriano, represented by Michael L. Prigoff, Esq., appeals the decision to remove his name from the Fire Fighter (M1855W), New Brunswick eligible list on the basis of falsification of his application.

The appellant took the open competitive examination for Fire Fighter (M1855W), which had an August 2018 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application. Specifically, it represented that in response to the question on his application, “Have you ever been dismissed or asked to resign from any employment you held?” appellant answered “No”. However, records show that he was hired on February 22, 2021, in Middlesex County, sustained an injury on February 25, 2021, and was deemed unfit for duty on March 8, 2021, due to a pre-existing injury. He subsequently resigned on April 29, 2022. Additionally, the appellant did not disclose prior biceps tear surgery from a bowling incident as requested in the background investigation packet.

On appeal, the appellant states that he never failed to disclose that he resigned from his position with Middlesex County Corrections as his application was submitted to New Brunswick more than four weeks prior to his resignation. He presents that he began the process of resigning on the evening of April 28, 2022 and informed the background investigator for New Brunswick via text messages. He completed the process on April 29, 2022, by hand-delivering his written resignation and equipment to

the Warden and then going in person to the Fire Department, where he met with Deputy Chief and Director and confirmed in person that he has resigned from Corrections. Additionally, regarding “bicep tear surgery,” the appellant states he never had bicep tear surgery as it was treated conservatively but rather had arthroscopy on his right shoulder on May 27, 2021. Additionally, regarding Question #38 which requests information about doctors consulted within the past five years, including contact information, dates and reasons for treatment the appellant states that he answered correctly and completely with respect to his treatment including the statement, “left and right shoulder. Right bicep.”

In response, the appointing authority presents that its investigation revealed several inconsistencies based on the question: “Do you have any defects (physical and/or mental) which would interfere with participation in all phases of fire training and firefighting activities or duties?” The appellant answered “No”. The appointing authority states that he did not disclose a prior partial biceps tear, which restricted him physically and required surgery and physical therapy. In its summary of its review of the appellant’s pre-employment application, the appointing authority states that even after several physical therapy sessions, he was still experiencing pain upon holding a mere black duffle bag. The appointing authority contends that the appellant argues in his Certification in Support of Appeal that he should not be discredited for failing to disclose his biceps tear because he had shoulder arthroscopy, not biceps surgery. It further argues he dodges the question in a likely attempt to hide or at least downplay his injury, and in doing so, misinformed it regarding a key pre-existing impairment. In view of the foregoing, the appointing authority sought to remove the appellant’s name from the subject eligible list based upon falsification of his application.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Civil Service Commission to remove an eligible’s name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

*N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to remove his or her name from an eligible list was in error.

The primary inquiry regarding the removal of a candidate’s name based on the falsification of his or her employment application is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. *See In the Matter of Nicholas D’Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003).

In this matter, the appointing authority had a valid reason for removing the appellant's name from the list. Specifically, the appellant failed to disclose incidents in his background history which include answering "No" when asked if he had ever been dismissed or asked to resign from any employment held. Records show that he was hired on February 22, 2021, in Middlesex County, sustained an injury on February 25, 2021, and was then deemed him unfit for duty on March 8, 2021, due to a pre-existing injury, and he subsequently resigned. More importantly, the appellant failed to fully disclose prior shoulder surgery and treatment. While the appellant may believe that he did not need to disclose this information, candidates are responsible for the accuracy of their applications. *See In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Moreover, even if there was no intent to deceive, his failure to disclose this was material. At minimum, the appointing authority needed this information to have a complete understanding of his background in order to properly evaluate his candidacy. *See In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Fire Fighters hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). The public expects Fire Fighters to present a personal background that exhibits respect for the law and rules.


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 (M1855W), New Brunswick, eligible list.

### ORDER

Therefore, it is ordered that this appeal 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 7<sup>TH</sup> DAY OF JUNE, 2023



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