



STATE OF NEW JERSEY

**In the Matter of Thomasina Lloyd,
Ocean County, Board of Social
Services**

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

CSC DKT. NO. 2023-846
OAL DKT. NO. CSV 00526-23

ISSUED: OCTOBER 16, 2024

The appeal of Thomasina Lloyd, Social Worker, Ocean County, Board of Social Services, removal, effective September 19, 2022, on charges, was before Administrative Law Judge Rebecca C. Lafferty (ALJ), who rendered her initial decision on September 16, 2024. No exceptions were filed.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting of October 16, 2024, accepted the recommendation as contained in the attached ALJ's initial decision to dismiss the appeal for the appellant's failure to appear.

ORDER

The Civil Service Commission dismisses the appeal of Thomasina Lloyd with prejudice.

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 16TH DAY OF OCTOBER, 2024**

Allison Chin Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. CSV 00526-2023

AGENCY DKT. NO. 2023-846

**IN THE MATTER OF THOMASINA LLOYD,
OCEAN COUNTY BOARD OF SOCIAL
SERVICES,**

Thomasina Lloyd, appellant, pro se

**Elizabeth A. Dalberth, Esq., appearing for respondent (Sweeney & Sheehan,
attorneys)**

Record Closed: September 12, 2024

Decided: September 16, 2024

BEFORE REBECCA C. LAFFERTY, ALJ:

In accordance with N.J.A.C. 1:1-3.3(b) and 1:1-14.4(a) this Tribunal is directing the Clerk to return the case to the transmitting agency for the reasons stated below:

On November 17, 2022, the respondent, Ocean County Board of Social Services (respondent or OCBSS), served the appellant, Thomasina Lloyd (appellant or Lloyd), with a Final Notice of Disciplinary Action (FNDA) removing her from her position after sustaining charges under N.J.A.C. 4A:2-2.3(a)(1) for incompetency, inefficiency or failure to perform duties, N.J.A.C. 4A:2-2.3(a)(6) for conduct unbecoming a public employee,

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N.J.A.C. 4A:2-2.3(a)(7) for neglect of duty, and N.J.A.C. 4A:2-2.3(a)(12) for other sufficient causes for failing to possess a valid New Jersey Driver's License in good standing and have a personal vehicle available daily for job duties (both express job qualifications for the position of social worker with the respondent), and for misleading, unethical, and unprofessional conduct in the course of performing job duties within the three-month probationary working test period.

On or about October 17, 2022, Lloyd appealed the FNDA. The appeal was transmitted to the Office of Administrative Law (OAL) and filed on January 13, 2023. The case was first assigned to Judge Susan Olgiati who held several prehearing/status conferences with the parties. Appellant did not appear for at least one of the conferences (June 5, 2023) held by Judge Olgiati. The matter was reassigned to me on July 20, 2023.

A teleconference was scheduled for July 28, 2023, due to the expedited nature of the matter. The conference was held, a discovery schedule was established, a follow-up status conference call and hearing dates were set, and a Prehearing Order was issued. See August 1, 2023 Prehearing Order.

Appellant did not appear for the scheduled status conference call on September 5, 2023. Counsel for respondent reached out to the appellant by telephone and left a message, but the appellant still failed to call into the conference, so the status conference was rescheduled for September 15, 2023. This Tribunal did not receive any messages or communications, either before or after the scheduled conference date, from the appellant regarding the status conference call, including any requests for adjournment.

Appellant also did not appear for the status conference call on September 15, 2023. Again, counsel for respondent reached out to the appellant by phone. Counsel for respondent advised that the appellant picked up the call but hung up on her. Counsel for respondent called the appellant back and left a message, but the appellant still did not call into the conference. This Tribunal did not receive any messages or communications, either before or after the scheduled conference date, from the appellant regarding the

status conference call, including any requests for adjournment. The status conference was rescheduled for September 29, 2023.

The appellant did not appear for the status conference call on September 29, 2023. Counsel for the respondent was able to reach the appellant by phone who indicated that she did not receive notice of the conference and was at a doctor's appointment and unable to participate in the conference. This Tribunal did not receive any messages or communications, either before or after the scheduled conference date, from the appellant regarding the status conference call, including any requests for adjournment. The Notice of Rescheduled Status Conference, dated September 15, 2023, was sent to the appellant via email and regular mail. The Notice included the following language, "Failure to dial in for the telephone conference, will result in the file being returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party." Additionally, the email attaching the Notice contained the following language, "If you do not participate in the telephone conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party." Counsel for respondent stated that she was going to file a Motion to Dismiss for failure to comply with court orders and discovery by October 6, 2023, and a status conference was scheduled for October 24, 2023.

The appellant appeared for the status conference call on October 24, 2023, at which time she indicated that she had not been receiving notices, nor did she receive the Motion to Dismiss filed by the respondent, despite counsel for the respondent having served the motion by email, regular mail and certified mail, return receipt requested. This Tribunal confirmed the post office box address for the appellant, which was the same address that all notices had been addressed. The appellant was advised that her opposition to the Motion to Dismiss was due on Monday, November 6, 2023, and that date was included in a Prehearing Order. See October 25, 2023 Amended Prehearing Order.

On Monday, November 6, 2023, appellant requested a one-week extension of time to file her opposition. The request for an extension was granted and the appellant was told that her opposition was due November 13, 2023. The appellant submitted a brief in opposition to the Motion to Dismiss on November 13, 2023, and the respondent submitted a reply brief on November 20, 2023. This Tribunal issued an Order denying respondent's Motion to Dismiss on December 8, 2023, and scheduled another status conference call for January 3, 2024.

The appellant appeared for the status conference call on January 3, 2024. On that call it was discussed that the appellant bears the burden of the proof in this matter because she was terminated within the probationary working test period. Another discovery schedule was set, as well as another status conference call for February 28, 2024, and a Prehearing Order was issued. See January 5, 2024 Amended Prehearing Order.

The appellant appeared for the next status conference call scheduled for February 28, 2024. The status of discovery was discussed, and counsel for the respondent stated that she would be sending a letter to the appellant regarding insufficient answers to interrogatories and the Notice to Produce. A Prehearing Order was issued. See March 5, 2024 Amended Prehearing Order. Another status conference call was scheduled for April 4, 2024, which was later adjourned due to a scheduling conflict with this Tribunal, and the status conference call was rescheduled for April 25, 2024. The Notice of the rescheduled status conference, dated April 1, 2024, was sent to the appellant via email and regular mail. Additionally, both the Notice and the email to appellant with the attached Notice included the following language, "If you do not participate in the telephone conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party."

The appellant did not initially appear for the status conference call on April 25, 2024. Counsel for the respondent reached out to the appellant and conferenced her into

the call. The appellant again claimed that she did not receive notice of the hearing, however, this Tribunal sent the notice of the conference call by email and regular mail and the appellant responded to this Tribunal's office via email on April 4, 2024, at 4:48 pm stating, "Received. Thank you." The status of discovery was discussed again, with both parties contending that the other's answers/responses were insufficient. A final discovery schedule was discussed, another Prehearing Order was issued, and a status conference call was scheduled for June 24, 2024. See April 26, 2024 Amended Prehearing Order.

The appellant did not appear for the status conference call on June 24, 2024, and it was rescheduled for July 18, 2024. This Tribunal did not receive any messages or communications, either before or after the scheduled conference date, from the appellant regarding the status conference call, including any requests for adjournment. The Notice of the next status conference call, dated April 26, 2024, was sent to the appellant via email and regular mail. Additionally, both the Notice and the email to appellant with the attached Notice included the following language, "If you do not participate in the telephone conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party."

The appellant did not appear for the status conference call on July 18, 2024. This Tribunal did not receive any messages or communications, either before or after the scheduled conference date, from the appellant regarding the status conference call, including any requests for adjournment. The Notice of the rescheduled status conference, dated June 25, 2024, was sent to the appellant via email and regular mail. Additionally, both the Notice and the email to appellant with the attached Notice included the following language, "If you do not participate in the telephone conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party."

On this same date, this Tribunal scheduled an in-person hearing for Wednesday, September 11, 2024, at 9:30 am in the OAL's Atlantic City office, and a final Prehearing Order was issued. See July 19, 2024 Prehearing Order. Notice of the in-person hearing was sent to the appellant via email and regular mail. The Notice included the following language, "If you do not attend the hearing, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party."

The appellant did not appear for the in-person hearing on Wednesday, September 11, 2024. This Tribunal did not receive any messages or correspondence from the appellant requesting an adjournment of the in-person hearing date. This Tribunal and counsel for the respondent waited approximately forty minutes on September 11, 2024, at which time brief testimony was placed on the record by the respondent regarding the merits of appellant's termination. Having waited twenty-four hours and having not received any communications from the appellant, the record was closed on September 12, 2024.

LEGAL ANALYSIS

N.J.A.C. 1:1-3.3(b) provides:

A case shall be returned to the transmitting agency by the Clerk of the Office of Administrative Law if, after appropriate notice, neither a party nor a representative of the party appears at a proceeding scheduled by the Clerk or a judge (see N.J.A.C. 1:1-14.4). Any explanations regarding the failure to appear must be in writing and received by the transmitting agency head within 13 days of the date of the Clerk's notice returning the case. A copy of the explanation shall be served on all other parties. If, based on such explanations, the agency head believes the matter should be rescheduled for hearing, the agency head may re-transmit the case to the Office of Administrative Law, pursuant to N.J.A.C. 1:1-8.2.

Additionally, N.J.A.C. 1:1-14.4 provides:

- (a) If, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall, unless proceeding pursuant to (d) below, direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).
- (b) If the nonappearing party submits an explanation in writing, a copy must be served on all other parties and the other parties shall be given an opportunity to respond.
- (c) If the judge receives an explanation:
 - 1. If the judge concludes that there was good cause for the failure to appear, the judge shall reschedule the matter for hearing; or
 - 2. If the judge concludes that there was no good cause for the failure to appear, the judge may refuse to reschedule the matter and shall issue an initial decision explaining the basis for that conclusion, or may reschedule the matter and, at his or her discretion, order any of the following:
 - i. The payment by the delinquent representative or party of costs in such amount as the judge shall fix, to the State of New Jersey or the aggrieved person;
 - ii. The payment by the delinquent representative or party of reasonable expenses, including attorney's fees, to an aggrieved representative or party; or
 - iii. Such other case-related action as the judge deems appropriate.

- (d) If the appearing party requires an initial decision on the merits, the party shall ask the judge for permission to present ex parte proofs. If no explanation for the failure to appear is received, and the circumstances require a decision on the merits, the judge may enter an initial decision on the merits based on the ex parte proofs, provided the failure to appear is memorialized in the decision.

The OAL did not receive “an explanation for the nonappearance within one day” of the appellant’s non-appearance for the status conferences scheduled for June 24, 2024, and July 18, 2024, nor the in-person hearing scheduled for September 11, 2024, within the meaning of N.J.A.C. 1:1-14.4(a). Having not received an explanation from the appellant to explain her non-appearances, N.J.A.C. 1:1-14.4 directs that this Tribunal “shall, unless proceeding pursuant to [N.J.A.C. 1:1-14.4(d)], direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).” As the respondent has not requested a decision on the merits of the matter be issued ex parte, no further proceedings pursuant to N.J.A.C. 1:1-14.4(d) are necessary. This Tribunal, therefore, is left only with the mandate that the matter “shall” be returned to the transmitting agency for appropriate disposition. N.J.A.C. 1:1-14.4(a).

I **CONCLUDE** that the appellant was provided with appropriate notices of scheduled proceedings, namely multiple prehearing status conferences, and an in-person hearing. The written notices of these scheduled proceedings provided to the appellant contained specific warnings of the consequences of a non-appearance and, despite having been provided with appropriate notice, the appellant failed to appear and failed to provide the OAL with an explanation for her non-appearance.

I **CONCLUDE** that the appellant has been dilatory in prosecuting her appeal, effectively abandoning the prosecution of her petition, and failed to present good cause in a timely manner as to why her failure to appear for at least two previously scheduled conferences and an in-person hearing should be excused pursuant to the provisions of N.J.A.C. 1:1-14.4(c). A plain reading of N.J.A.C. 1:1-14.4(a), therefore, requires that the

matter now be returned to the transmitting agency for appropriate disposition. See also N.J.A.C. 1:1-3.3(b).

ORDER

Based on the foregoing, I **ORDER** that the clerk return the case to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

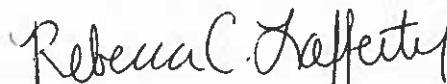
Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

September 16, 2024
DATE

Date Received at Agency:

Date Mailed to Parties:

RCL/tat



REBECCA C. LAFFERTY, ALJ