



STATE OF NEW JERSEY

In the Matter of Fred Mitchell,
Berkeley

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

Administrative Appeal

CSC Docket No. 2024-2056

ISSUED: April 9, 2025 (ABR)

Fred Mitchell, a former Fire Prevention Specialist, appeals Berkeley's calculation of his vacation leave entitlement for 2024.

By way of background, the appellant was provisionally appointed as a part-time Fire Prevention Specialist, effective August 1, 1998. Subsequently, the appellant received a regular appointment, effective July 2, 1999.¹ The appellant remained a part-time employee until May 6, 2019, at which time he began serving full-time. In 2022 and 2023, the appellant received 23 days of vacation leave from the appointing authority. In January 2024, the appellant was initially given the same 23 days of vacation leave. However, on January 25, 2024, the appointing authority notified the appellant that it had determined that he was only entitled to 18 days of vacation leave because it was the start of his fifth year of full-time service. The appellant subsequently appealed this determination to the Civil Service Commission. During the pendency of this appeal, the appellant retired from his position, effective January 1, 2025.

On appeal, the appellant challenges the propriety of the appointing authority's determination with respect to his 2024 vacation leave entitlement. He complains that

¹ Prior to February 25, 2019, the Fire Prevention Specialist title was allocated to the competitive division of the career service. Effective February 25, 2019, the title was reallocated to the noncompetitive division. *See In the Matter of Fire Prevention Specialist* (CSC, decided February 20, 2019).

despite his requests after January 25, 2024, the appointing authority did not furnish him with a contract or any other written documentation to support its determination regarding his 2024 vacation leave entitlement. He maintains that he should have been awarded 23 vacation days in 2024 based upon his 25 years of service with the appointing authority.

In reply, the appointing authority states that when the appellant became a full-time employee, effective May 6, 2019, because he was not in a union and was considered a non-contractual employee, his vacation leave entitlement was calculated based upon the supervisor's union contract and in the same manner as other non-contractual employees. It presents that the contract sets forth that vacations are based on "continuous full-time employment." The appointing authority advises that based upon the foregoing, it awarded the appellant 12 vacation days in 2020 and 2021. It proffers that it mistakenly awarded the appellant 23 vacation days instead of the 12 days he was actually entitled to in 2022 and 2023 because its timekeeping system erroneously used the appellant's part-time start date to calculate the appellant's vacation leave entitlement in lieu of his May 6, 2019, full-time start date. It indicates that it became aware of its error in 2024 and accordingly corrected his vacation leave entitlement for 2024 to 18 days. It adds that in 2024 it did not request the excess 22 days the appellant received in 2022 and 2023 back from the appellant. In support, the appointing authority provides a copy of the section of the supervisor's union contract that it relies upon in support of its position.

CONCLUSION

N.J.S.A. 11A:6-3 states, in relevant part that vacation leave for full-time political subdivision employees shall be at least:

- a. Up to one year of service, one working day for each month of service;
- b. After one year and up to 10 years of continuous service, 12 working days;
- c. After 10 years and up to 20 years of continuous service, 15 working days;
- d. After 20 years of continuous service, 20 working days[.]

N.J.A.C. 4A:6-1.2(b) states that from initial employment up to the end of the first calendar year, annual paid vacation leave for full-time local employees shall be at least the amounts specified in *N.J.A.C.* 4A:6-1.2(a)1 and (a)2 and that thereafter, their vacation leave shall be at least:

1. From the beginning of the first full calendar year of employment and up to 10 years of continuous service, 12 working days;
2. After 10 years of service and up to 20 years of continuous service, 15 working days; and

3. After 20 years of continuous service, 20 working days.

N.J.A.C. 4A:6-1.2(c) defines continuous service, for purposes of *N.J.A.C.* 4A:6-1.2, as employment for the same jurisdiction, or, if the requirements of *N.J.A.C.* 4A:4-7.1A are met, employment for different jurisdictions (except as provided *N.J.A.C.* 4A:6-1.2(d)), without actual interruption due to resignation, retirement, or removal.

N.J.A.C. 4A:6-1.2(e) provides that part-time and 10-month employees shall be entitled to a proportionate amount of paid vacation leave.

In the instant matter, the appointing authority erred in treating the appellant's conversion from part-time to full-time status as requiring that he be treated as a new employee for the purposes of calculating his vacation leave entitlement. As noted above, "continuous service" for purposes of *N.J.A.C.* 4A:6-1.2 is defined, in relevant part as "employment for the same jurisdiction" and does not distinguish between full-time and part-time service.² As such, the appointing authority should have based the appellant's leave entitlement calculation for 2024 on his more than 20 calendar years of cumulative service, rather his five years as a full-time employee. Pursuant to *N.J.S.A.* 11A:6-3 and *N.J.A.C.* 4A:6-1.2(b), this means that, as a full-time employee in 2024, he was entitled to a minimum of 20 working days of vacation leave. Since the appointing authority provided him with less than the minimum of 20 working days required under the Civil Service law and rules in 2024, the appointing authority must recalculate the appellant's 2024 vacation leave entitlement based upon his continuous service and provide him with any additional compensation for unused vacation leave upon retirement that he would have otherwise been entitled to at the time of his retirement based upon this adjustment.

ORDER

Therefore, it is ordered that Berkeley recalculate the appellant's 2024 vacation leave entitlement and compensation for unused vacation time upon his retirement, effective January 1, 2025, in accordance with the above.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

² This interpretation is consistent with the definition of "seniority" for layoff purposes, which, except for police and fire titles, is defined, in relevant part, as "the amount of continuous permanent service in the jurisdiction, regardless of title" and is "based on total calendar years, months, and days in continuous permanent service regardless of work week, work year, or part-time status." See *N.J.A.C.* 4A:8-2.4.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 9TH DAY OF APRIL, 2025

Allison Chris Myers

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Chairperson
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