



STATE OF NEW JERSEY

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

In the Matter of Johnny Harris,
Orange Township Fire Department

CSC Docket No. 2025-1215

Reconsideration

ISSUED: December 17, 2025 (KMG)

Johnny Harris, a former Fire Fighter with Orange Township Fire Department, represented by Eric W. Feinberg, Esq., petitions the Civil Service Commission (Commission) for reconsideration of the decision, rendered on November 27, 2024, in which the former Director of the Division of Appeals and Regulatory Affairs denied his request for a hearing with respect to his removal.

By way of background, in a September 28, 2023 Final Notice of Disciplinary Action (FNDA), the petitioner was removed effective, July 28, 2023, on various charges. The record indicates that the notice was sent via certified mail to Address 1¹ on September 29, 2023. The tracking record for the certified mail shows that delivery was made on October 23, 2023. Thereafter, the appellant appealed his removal postmarked October 21, 2024. The appeal, and the check for the appeal fee were dated October 21, 2024. However, since the petitioner did not submit his appeal within 20 days of receipt of the FNDA, his request for a hearing was denied.

In his request for reconsideration, the appellant argues that, despite the certified mail to Address 1 and a printout from the United States Postal Service's (USPS) website, there was no signed green card to show that the FNDA was delivered. Additionally, the appellant argues that the appointing authority sent his

¹ Four addresses, all located in New Jersey, will be referenced throughout this document. For clarity and organization, these addresses will be referred to as Address 1 through Address 4.

FNDA via certified mail to the wrong address. In this regard, the appellant argues that the appointing authority had previously sent the Preliminary Notice of Disciplinary Action (PNDA) and his paystub to Address 2, which the appellant asserts is his primary residence. Furthermore, the appellant states that the appellant's counsel had made several inquiries regarding the determination of his August 8, 2023, hearing but never received any response. Specifically, on July 5, 2024, the appellant's counsel contacted the appointing authority requesting the outcome of the hearing. Counsel followed up on September 18, 2024, and again on October 1, 2024. He maintains that his counsel finally received the FNDA on October 4, 2024.

The appellant claims that the Commission should accept the timeline that he presents to explain the delay in his filing as new information. He asserts that when the Director denied his appeal on November 27, 2024, the information regarding the appellant's service of the FNDA was not presented and the Director was therefore unaware that the FNDA was sent to the wrong address. Furthermore, the appellant emphasizes that the appointing authority has only produced an unsigned green card addressed to Address 1, which he states was not his residence at the time of service, and that the appointing authority neglected to send a certified mail copy of the FNDA to the appellant at Address 2. Finally, the appellant claims that the Business Administrator's certification that the appellant was intentionally avoiding service is merely opinion and it should not be considered. He also argues that the certification is undated and missing required language as required by Rule 1:4-4 and is therefore not valid.

In response, the appointing authority, represented by John J.D. Burke, Esq., argues that the FNDA was sent via certified mail to Address 1 and that the USPS tracking system indicated that it was accepted by an individual at that address. Moreover, the appointing authority notes that on September 28, 2023, it sent Police Department personnel to attempt to serve copies of the FNDA to Address 1 and three additional addresses it had on file for the appellant. It also sent an email copy to the appellant's email address of record, as well as to the two union officials who represented the appellant at the departmental hearing. The appointing authority argues that it utilized Address 1 for the FNDA rather than Address 3, the address the PNDA was sent to and the address the appellant claims was his correct address, because the PNDA could not be delivered to Address 3. In support, it submits the USPS tracking system printout which indicated that the item was still out for delivery. Furthermore, the appointing authority maintains that the appellant was removed from the payroll and his health insurance benefits were terminated on July 28, 2023 and August 28, 2023, respectively. Therefore, he should have been aware shortly after his health benefits stopped that he was no longer an employee. In support, it also submits a certification from the Business Administrator.

Finally, the appointing authority argues that based on all of the varied attempts to serve the appellant, it is clear that the appellant was attempting to evade service of the FNDA.² It argues that the Commission has held that an employee cannot avoid service of a FNDA and have the time frame to appeal extended. *See In the Matter of Steven Ramzi* (CSC, decided September 16, 2019). Therefore, it maintains that as the appellant did not appeal the FNDA until October 21, 2024, a year after the FNDA was served on the appellant, his appeal was untimely and the instant request for reconsideration should be dismissed.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

N.J.S.A. 11A:2-15 provides, in relevant part, that any appeal from adverse actions specified in *N.J.S.A.* 11A:2-13 shall be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. *See also, N.J.A.C.* 4A:2-2.8(a). *N.J.S.A.* 11A:2-15 further provides that if the appointing authority fails to provide a written determination, an appeal may be made directly to the Commission within reasonable time. *See also, N.J.A.C.* 4A:2-2.8(b).

In the present matter, the appellant relies on the assertion that he did not receive the FNDA until October 4, 2024, when it was received by his counsel. The appellant argues that the appointing authority sent the FNDA to an “incorrect address,” and that it only produced an unsigned “green slip” as proof of delivery. The appointing authority acknowledges that it sent the FNDA via regular and certified mail to Address 1,³ the address the appellant claims is no longer correct. However, the appointing authority also attempted delivery to all four addresses, via personal service, including the address the appellant claims was his correct address. The appointing authority further notes that it also sent the FNDA via email to the appellant at his last known email address and to the two union representatives who appeared at the appellant’s hearing on his behalf. Based on the foregoing, it is clear that the appointing authority took reasonable steps to ensure proper service of the FNDA on the appellant.

² The appointing authority notes that when it attempted personal service of the FNDA, the appellant refused to accept it, and instead, it left a copy of the FNDA in the mailbox for Address 3, attempted to send it via certified mail, and a copy was given to his union representatives.

³ USPS’s records show that the certified mail was delivered on October 23, 2023 with a status of: Delivered, left with individual.

Moreover, the Commission is unconvinced by the appellant's reasoning for the appeal to be submitted nearly a year after the issuance of the FNDA. Regardless of when the appellant's counsel received the FNDA, the appellant should have reasonably known of the outcome of his hearing based on the multiple letters and emails sent to him, and letters sent to his union representatives. Additionally, the appellant could have filed an appeal with this agency prior to having received the FNDA, as *N.J.S.A. 11A:2-15* provides that the appeal must be filed within a reasonable period of time if no FNDA is received. In this regard the Commission finds that waiting more than a year after the date of the FNDA was unreasonable. Even using the July 2024 request for the FNDA, the appellant still waited an additional three months prior to filing his appeal with this agency. Although the appellant claims the appointing authority should have sent the FNDA to Address 3 instead of Address 1, he fails to address whether he received *any* of the attempts made to Address 3 or any of his other addresses. In this matter, the appointing authority made numerous attempts to serve the appellant via email, regular mail, certified mail and even personal service. The appellant appeared at the departmental hearing on August 8, 2023. Yet, the appellant does not provide any explanation of what he thought his status was between the August 8, 2023 hearing and October 4, 2024, when the appellant's attorney received the FNDA, especially considering that, the record indicates that his health benefits were terminated effective August 28, 2023. So, at a minimum, even assuming that the appellant did not receive any of the mailed or emailed copies of the FNDA, he should have reasonably been aware of his termination on or about the date his health benefits were terminated. However, the appellant waited more than a year to inquire whether a FNDA was issued. Finally, the statutory time frame for such an appeal under *N.J.S.A. 11A:2-15* is jurisdictional and cannot be relaxed. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App Div. 1978). Therefore, based on the foregoing, the Commission cannot consider the appellant's appeal of his removal as timely filed.

ORDER

Therefore, it is ordered that this request for reconsideration 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 17TH DAY OF DECEMBER, 2025

Allison Chris Myers

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Chairperson
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