



STATE OF NEW JERSEY

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

In the Matter of Carolyn Whitehead

CSC Docket No. 2025-1028

Request for Enforcement

ISSUED: September 24, 2025 (EG)

Carolyn Whitehead petitions the Civil Service Commission (Commission) for enforcement of its decisions in *In the Matter of Carolyn Whitehead, East Orange, Department of Policy, Planning and Development* (CSC, decided February 28, 2024) and *In the Matter of Carolyn Whitehead* (CSC, decided September 4, 2024).

As background, the record indicates Whitehead, an Assistant Zoning Officer, was removed and resigned not in good standing effective July 23, 2020. Whitehead appealed and the matter was transmitted to the Office of Administrative Law for a hearing where the Administrative Law Judge (ALJ) found that Whitehead testified credibly and found the charges against Whitehead could not be upheld. The Commission accepted and adopted the ALJ's Findings of Fact and Conclusions and his recommendation to reverse the removal. The Commission ordered that Whitehead be reinstated, and receive mitigated back pay, benefits, and seniority. Thereafter, East Orange filed a request for a stay of the Commission's decision while Whitehead filed a request for enforcement of the decision. In denying the request for a stay, the Commission found that East Orange merely reiterated its prior contentions raised in its exceptions filed after the ALJ's decision, which the Commission had previously found to be unpersuasive. The Commission found no reason to question the ALJ's credibility determinations, or the findings and conclusions made therefrom. Therefore, the Commission found that East Orange failed to present a clear likelihood of success on the merits and rejected its claim that it would suffer irreparable harm if its request for a stay were not granted.

Accordingly, the Commission ordered that Whitehead immediately be reinstated. It further ordered that failure to reinstate Whitehead within 30 days of the issuance of the decision would result in fines.

In the present matter, Whitehead argues that East Orange has failed to reinstate her as ordered by the Commission. She asserts that she was given a return-to-work date of September 16, 2024, that was changed to October 4, 2024. She states that when she reported to work on October 4, 2024, she was told to go home because East Orange had filed a “lawsuit” against her. In this regard, she presents a copy of an order from the Superior Court of New Jersey Chancery Division dismissing East Oranges’ filing against Whitehead. Whitehead requests East Orange return her to work and that it be assessed fines.

In response, East Orange, represented by Sean M. Pena, Esq., argues that Whitehead’s request for enforcement should be denied. It requested emergent relief in Superior Court to compel Whitehead to negotiate a back pay settlement with it so it could then appeal to the Commission’s decisions to the Appellate Division. It contends that the Appellate Division will not accept its appeal because of the outstanding issue of back pay. In this regard, East Orange argues that Whitehead has refused to discuss back pay with it until she is returned to work. In support of its contention, East Orange makes substantially the same arguments that it did in its exceptions and request for a stay. It argues that it has a clear likelihood of success on appeal as the Commission’s decision was based on giving undue deference to the ALJ’s findings of credibility which was the ALJ’s basis for his determination. It argues that the record was replete with contrary testimony and admissions by Whitehead. It claims that the ALJ’s credibility determinations, and his findings and conclusions based on those determinations were arbitrary, capricious, or unreasonable and not based on recorded testimony. Further, it faces a danger of immediate or irreparable harm as Whitehead has refused to negotiate back pay thereby denying it of its ability to pursue an appeal in the Appellate Division. Further, it argues that there is an absence of injury or harm to Whitehead as she would be entitled to back pay if she is ultimately returned to work.

CONCLUSION

N.J.A.C. 4A:2-1.2(c) provides the following factors for consideration in evaluating petitions for a stay:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm;
3. Absence of substantial injury to other parties; and
4. The public interest.

In the instant matter, East Orange reiterates its prior contentions raised in its exceptions and request for a stay. As the Commission indicated in its prior decision, these arguments were thoroughly reviewed and considered but found to be unpersuasive. The Commission found no reason to question the ALJ's credibility determinations or the findings and conclusions made therefrom at that time and upon initial reconsideration and continues to find no reason to question those determinations. As such, any such claims by East Orange of a clear likelihood of success on the merits of its appeal are once again rejected. Further, the Commission rejects the appointing authority's claim that it will suffer irreparable harm if required to reinstate Whitehead. Returning Whitehead to work and granting her any back pay owed does not indicate irreparable harm. Further, as indicated in *In the Matter of Carolyn Whitehead, East Orange, Department of Policy, Planning and Development* (CSC, decided February 28, 2024), per the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. February 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay are finally resolved. Further, as the court stated in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority **shall immediately reinstate Whitehead to her permanent position.** Whitehead not discussing back pay before being reinstated is **not** a valid reason to not reinstate her. Moreover, East Orange's desire to appeal the decision is not a reason to compel Whitehead to negotiate back pay before she is reinstated. Furthermore, a return to work is necessary to determine the proper back pay award, if any.¹ Accordingly, East Orange is ordered to return Whitehead to her position.

With regard to the potential fine for non-compliance referred to in the Commission's September 4, 2024, decision, the Commission will only impose fines and penalties in such matters where an appointing authority has not made a good faith effort to comply with a Commission order. The Commission derives the power to assess such fines pursuant to *N.J.S.A. 11A:10-3*. *See also N.J.A.C. 4A:10-2.1*. In this matter, it is clear that East Orange, absent any arguments to the contrary, has not made a good faith effort to reinstate Whitehead to her position. In this regard, the Commission notes that East Orange has provided no persuasive explanation for its refusal to reinstate Whitehead. The Commission ordered East Orange to reinstate the petitioner within 30 days of its decision issued on September 4, 2024, or be subject to fines. Accordingly, East Orange has been in non-compliance with the Board's order since the 31ST day following the issuance of that decision, or October 6, 2024, a period of more than 100 days. Therefore, the Commission orders that the East Orange be fined the maximum fine of \$10,000.

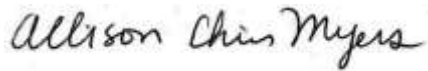
¹ The Commission notes that while *N.J.A.C. 4A:2-2.10(f)* states that the parties should attempt to resolve the issue of back pay, where such agreement is not forthcoming, *N.J.A.C. 4A:2-2.10(g)* states that either party may request that the Commission review that issue and make a determination. In this regard, Whitehead has made such a request. However, that matter remains pending as the record does not contain sufficient information for a determination at this time. The parties will be contacted after the issuance of this decision regarding that matter. Regardless, Whitehead **must** be reinstated in the interim.

ORDER

Therefore, it is ordered that Carolyn Whitehead's request for enforcement be granted and she be immediately reinstated to her position with mitigated back pay, benefits, and seniority as previously directed. Further, the Commission orders East Orange to pay fines of \$10,000 for its non-compliance with the Commission's September 4, 2024, decision to immediately reinstate Whitehead. Failure to pay this amount within 60 days of this decision will result in this matter being forwarded to the Attorney General's Office for further compliance efforts.

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 24TH DAY OF SEPTEMBER, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Carolyn Whitehead
Sean M. Pena, Esq.
Division of Appeals and Regulatory Affairs
Records Center
Division of Agency Services