



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Michael Dougherty,
Beach Haven

CSC Docket Nos. 2026-597 and
2026-1314

Hearing Granted

ISSUED: January 21, 2026

Michael Dougherty, a Carpenter with Beach Haven, represented by George Burr, Jr., Teamsters Local 97, requests a hearing with respect to his removals.

As background, agency records reflect that the appellant received a provisional appointment, pending open competitive examination procedures, to the title of Carpenter with Beach Haven, effective December 17, 2007. The appellant received a Preliminary Notice of Disciplinary Action (PNDA) dated July 17, 2025, charging him with incompetency, inefficiency, or failure to perform duties; insubordination; conduct unbecoming a public employee; neglect of duty; misuse of public property, including motor vehicles; and other sufficient cause. Following a departmental hearing on August 5, 2025, he was removed, effective August 5, 2025, via Final Notice of Disciplinary Action (FNDA) dated August 5, 2025. According to the FNDA, the appellant had a “30-day suspension and last chance agreement” in 2024.

In addition, the appellant received a second PNDA dated July 17, 2025, charging him with incompetency, inefficiency, or failure to perform duties; insubordination; conduct unbecoming a public employee; neglect of duty; and other sufficient cause. Here, the appellant did not request a departmental hearing, and he was removed, effective August 5, 2025, via a second FNDA dated August 11, 2025.

The appellant filed timely appeals with this agency regarding the removals. Subsequently, the Division of Appeals and Regulatory Affairs advised the appointing authority that the appellant had not been entered into the County and Municipal

Personnel System (CAMPS). On November 10, 2025, the appointing authority entered the appellant into CAMPS. Specifically, the appointing authority entered the appellant's provisional appointment, pending open competitive examination procedures, to the title of Carpenter, effective December 17, 2007, and his separation, effective August 5, 2025. The Division of Agency Services advised that the appellant's provisional appointment had only been brought to this agency's attention when it was entered into CAMPS and that no examination announcement or eligible list had ever been issued relative to the appellant's position.

It is noted that the Civil Service job specification for the title of Carpenter provides the following experience requirement: three years of experience in carpentry work involving the layout, construction, repair, and maintenance of buildings and office equipment and furnishings.

CONCLUSION

In *Kyer v. City of East Orange*, 315 N.J. Super. 524 (App. Div. 1998), the court determined that the City of East Orange's actions in denying Kyer, a seven-year employee, the opportunity to ever achieve permanent status in her competitive career service position, contrary to the Civil Service Act, were so egregious that they warranted a unique remedy.

It is our view that a delicate balance must be struck between the public and private interests that are subject to prejudice when a governmental entity fails to comply with its statutory obligations. Estoppel is not the answer. First, the Supreme Court has precluded that solution. Second, unqualified persons may thereby be afforded an improper route to permanency. But by the same token, it is no solution to leave remediless the well-qualified, experienced, high-performing, long-term provisional employee who is unaware that her position is not permanent, who in all likelihood would have easily achieved permanency but for the municipal negligence, and whose summary discharge from employment is as obviously unfair and arbitrary as this jury found plaintiff's to be. [*Kyer, supra*, 315 N.J. Super. at 532-533].

Accordingly, the court transferred the case to this agency to retroactively determine whether Kyer would have qualified for the competitive career service position she provisionally held for seven years and, if so, "to fashion an appropriate remedy." *Id.* at 534. Ultimately, after the remand, the former Merit System Board (Board) determined that, notwithstanding Kyer's years of service or the misdeeds of the appointing authority, she was not entitled to a permanent appointment since she did not meet the open competitive requirements for the position at the time the provisional appointment was initially made or at any time thereafter. *See In the Matter of Ruby Robinson Kyer* (MSB, decided May 4, 1999).

Similarly, in *Melani v. County of Passaic*, 345 N.J. Super. 579 (App. Div. 2001), the court transferred the matter of a long-term provisional employee who was laid off effective May 1, 1998 to the Board for the fashioning of a remedy. Again, however, the Board ultimately determined that the appellant in *Melani* was not entitled to a remedy. Specifically, the Board determined that, at the time of her provisional appointment, she did not meet the open competitive requirements for her title, and, as such, she could not have achieved permanency even absent municipal negligence. See *In the Matter of Dina Melani* (MSB, decided May 15, 2002). Cf. *In the Matter of Glenn Crane, City of Newark*, Docket No. A-0413-04T3 (App. Div. February 17, 2006) (Appellate Division upheld Board's decision to grant permanent status to a long-term provisional employee, who was informed by the appointing authority that he was being permanently appointed from an eligible list on which his name appeared).

In the instant matter, the appointing authority apparently appointed the appellant over 18 years ago, and the appointment was not reported to this agency until late 2025. Had the appellant's appointment been timely reported and recorded by this agency, the open competitive examination process would have commenced. The examination process would have enabled this agency to review his qualifications, and if applicable, administer an examination testing his knowledge, skills, and abilities, relative to other qualified candidates. Nevertheless, it is evident that the appellant has been led to believe that he enjoyed status as a permanent employee and the rights and emoluments commensurate with permanent status. For example, the record reflects that in 2024, the appellant received a 30-day suspension and last chance agreement, suggesting that the appointing authority was applying progressive discipline. And on the occasion of the appellant's being subjected to the removals, he was afforded notice and an opportunity for a departmental hearing, as well as appeal rights to the Civil Service Commission (Commission).

Therefore, it is appropriate to undertake a review of the appellant's qualifications, in accordance with *Kyer* and *Melani*, *supra*, in an effort to discern whether he could have achieved permanency in his title. Here, applicants for the title of Carpenter are required to possess three years of experience in carpentry work involving the layout, construction, repair, and maintenance of buildings and office equipment and furnishings. The Commission is satisfied that the appellant's long-term service as a Carpenter, well over three years, reflects his possession of that requirement. Accordingly, the Commission finds that the appellant has demonstrated his entitlement to permanent status in his title, and his personnel records should be changed to reflect his permanent appointment to the title of Carpenter on December 17, 2010, *i.e.*, three years after commencing employment.

As such, the appellant's timely appeals of his removals, effective August 5, 2025, should be transmitted to the Office of Administrative Law for hearings as contested cases.

ORDER AS TO EMPLOYMENT STATUS

Therefore, it is ordered that the appellant be granted permanent status as a Carpenter, effective December 17, 2010.

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

ORDER AS TO REMOVALS

It is ordered that the matters of the appellant's removals be transmitted to the Office of Administrative Law for hearings as contested cases.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21st DAY OF JANUARY, 2026



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