



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of LaQuan Shamberger, Fire Fighter (M2543M), Kearny

CSC Docket No. 2016-3382

List Removal Appeal

ISSUED: DEC 15 2016 (CSM)

LaQuan Shamberger appeals the removal of his name from the eligible list for Fire Fighter (M2543M), Kearny, on the basis of falsification of his employment application and failure to meet the residency requirement.

The subject examination was announced with a March 31, 2010 closing date. In disposing of the September 16, 2015 certification, the appointing authority requested the removal of the appellant's name, contending that he had falsified his application and for failure to meet the residency requirement. In its request, the appointing authority stated that the appellant failed to list on his application that he lived at a [redacted] address. In support, it provided copies of the appellant's 2012 State and federal income tax returns and a W-2 indicating a [redacted] address, an Equifax credit report listing the appellant's current address as [redacted] as of June 2015, a Motor Vehicle Services Address Change History report listing the appellant's residential address as [redacted] to August 22, 2014, and T-Mobile phone bills dated February and March 2015 sent to the appellant's [redacted] address. The appointing authority also provided a copy of the appellant's application, on which he indicated residency in [redacted] from January 2013. The appellant appealed the matter to the Division of Agency Services (Agency Services), which found that the appointing authority had sustained its request to remove his name from the list.

On appeal, the appellant initially addresses the assertion in Agency Services' letter that he lived in [redacted] until 2012. The appellant states that he never lived in [redacted] after 2008 and that it was an innocent mistake on his part including it

on his application. In this regard, he states that he was under extreme pressure to meet the Kearny application deadline and it was an overwhelming amount of information to provide in a brief period of time. Further, he explains that he did change his address with the Motor Vehicle Commission from [REDACTED] but explains that it was not because he actually moved from [REDACTED]. Rather, it was to save money on his car insurance. The appellant indicates that "if I'm guilty of anything, it is not moving out of the city of [REDACTED] but of insurance fraud." The appellant provides copies of reports from TransUnion, computer-generated tax returns and Essex County College transcripts, all with various issued dates in 2016, in support of his appeal.

In response, the appointing authority provides copies of the appellant's original 2012 State and federal income tax returns and a W-2 indicating a [REDACTED] address, an Equifax credit report listing the appellant's current address as [REDACTED] as of June 2015, a Motor Vehicle Services Address Change History report listing the appellant's residential address as [REDACTED] to August 22, 2014, and T-Mobile phone bills dated February and March 2015 sent to the appellant's [REDACTED] address. The appointing authority also provided a copy of the appellant's application, on which he indicated residency in [REDACTED] from January 2013 but he does not list a [REDACTED] address.

### CONCLUSION

*N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)6*, allows the removal of an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *N.J.A.C. 4A:4-6.3(b)*, in conjunction with *N.J.A.C. 4A:4-4.7(d)*, provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

*N.J.A.C. 4A:4-2.11(c)1* provides that when an appointing authority requires residency as of the date of the appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. *N.J.A.C. 4A:4-4.7(a)7* provides that discontinuance of an eligible's residence in the jurisdiction to which an examination was limited or for a title for which continuous residence is required is a cause for disqualification from an eligible list.

In the instant matter, the appointing authority properly removed the appellant's name from the subject list. The instructions on the application filed by the appellant clearly state "List all address[es] you have lived at starting with your current address. Account for all times including military service. Leave no gaps. List dates as month and year." Although he did not list the [REDACTED] address on his application, the appellant's original 2012 State and federal income tax returns

and a W-2 indicate a [REDACTED] address, an Equifax credit report lists the appellant's current address as Maplewood as of June 2015, a Motor Vehicle Services Address Change History report lists the appellant's residential address as [REDACTED] to August 22, 2014, and T-Mobile phone bills dated February and March 2015 list the appellant's [REDACTED] address. While the appellant states that he was in a rush to fill out his application, he explains in his appeal that the change in his Motor Vehicle Services Address Change History report was based on his desire to achieve lower car insurance rates but that he never actually moved out of [REDACTED].

An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991). The information that the appellant failed to disclose is considered material and should have been accurately indicated on his employment application. The Appellate Division of the New Jersey Superior Court in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant.

In this case, it is recognized that a firefighter occupies a highly visible and sensitive position within the community and the standard for an applicant includes a good character and utmost confidence and trust. *See N.J.S.A. 40A:14-9* which provides, in pertinent part, that except as otherwise provided by law, no person shall be appointed as a member of the paid or as a paid member of a part-paid fire department and force unless he is of good moral character. The appellant explains on appeal that he attempted to lower his automobile insurance liability by using an address other than [REDACTED] yet he maintains that his primary residence was in [REDACTED]. In other words, the appellant submitted false information to the Motor Vehicle Commission and to his insurance company. These actions are unacceptable for an individual applying for the position of Fire Fighter and do not reflect good moral character. Thus, the appellant's actions concerning his attempt to lower his insurance rates provide further basis to remove his name from the eligible list. *See In the Matter of Kelvin Alfred, Fire Fighter (M9050N), Newark* (MSB, decided February 11, 1997) (Appellant who claimed he was a resident of [REDACTED] but who admitted to utilizing an out-of-town address to lower his car insurance rates removed from eligible list and the former Merit System Board referred the information it had received to the Division of Motor Vehicle Services and appellant's insurance company). Finally, even assuming his Motor Vehicle Services Address Change History is accurate, he clearly did not maintain the required residency from the March 31, 2010 closing date and up to the date of appointment consideration. Accordingly, the Commission is referring this matter to the Motor Vehicle Commission for review.

Therefore, the appointing authority has presented a sufficient basis to remove the appellant's name from the Fire Fighter (M2543M), Kearny eligible list for falsification of the employment application and failure to meet the residency requirement and the appellant has failed to meet his burden of proof in this matter

**ORDER**

Therefore, it is ordered that this appeal be denied. It is further ordered that this matter be referred to the Motor Vehicle Commission for review.

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 7<sup>TH</sup> DAY OF DECEMBER, 2016




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