



B-54

STATE OF NEW JERSEY

In the Matter of Joseph R. Wagner,
City of Beverly

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-1313

Administrative Appeal

ISSUED: OCT 09 2015 (JET)

The City of Beverly (Beverly), on behalf of Joseph R. Wagner, requests that he be permitted to participate in the intergovernmental transfer program.

By way of background, Wagner was appointed as a Police Officer with Cinnaminson Township effective March 9, 2015. However, his 12-month working test period commenced on July 30, 2015 when he completed the Basic Course for Police Officers. It is noted that, in local service, law enforcement officers do not begin their working test period until after the appointing authority is notified that the appointees have completed a required basic police training course. *See N.J.A.C. 52:17B-66 et. seq.* Subsequently, Wagner sought an intergovernmental transfer to Beverly as a Police Officer. Although Wagner, the Beverly Police Department, and the Cinnaminson Police Department agreed to the terms of the intergovernmental transfer, the Division of Agency Services (Agency Services) was unable to process the request absent rule relaxation procedures, since Wagner is still serving in his working test period. *See N.J.A.C. 4A:4-7.1A(a).*

In its request to the Civil Service Commission (Commission), Beverly presents that it has an immediate need for a fully trained Police Officer. Beverly explains that, due to the small size of its Police Department, it is limited to a total of only six officers to work on a 24 hour, seven day a week basis. Beverly adds that one of its police officers was seriously injured, and the current Chief of Police will be retiring in the near future. Beverly states that the personnel shortage does not allow for more than one officer to be scheduled per shift, and as a result, the four available officers have been working up to 50 hours overtime per each pay period.

Beverly avers that it has disposed of two previous eligible lists and there are no other lists available to make an appointment. Moreover, Wagner signed an agreement indicating that all accumulated seniority and sick leave is to be waived, and Cinnaminson Township has approved the intergovernmental transfer. Thus, under these circumstances, Beverly requests permission to proceed with an intergovernmental transfer for Wagner.

CONCLUSION

N.J.A.C. 4A:4-5.2(d) states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status. *N.J.A.C.* 4A:4-5.2(d)1 states that in local service, law enforcement officers who are required by *N.J.S.A.* 52:17B-66 *et seq.* (Police Training Act) to complete a police training course shall not begin their working test period until notification is received by the appointing authority from the Police Training Commission of the successful completion of the police training course. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee and this agency. Absent rule relaxation procedures, a transfer in this case could not be processed since the transfer involves an employee who has not yet completed his working test period. *N.J.A.C.* 4A:4-7.1A(a) states that an intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A. However, Mr. Wagner is not permanent since he did not complete his 12-month working test period. Given Beverly's critical need for trained law enforcement staff, good cause exists to relax the controlling regulatory provisions in order to permit the transfer of Mr. Wagner and to allow him to complete the remainder of his working test period with Beverly.

As a final matter, *N.J.S.A.* 11A:2-28(a) and (b) provide that law enforcement officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights, and that the waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and this agency. *See also N.J.A.C.* 4A:4-7.1A(b)2. In this case, Mr. Wagner agreed

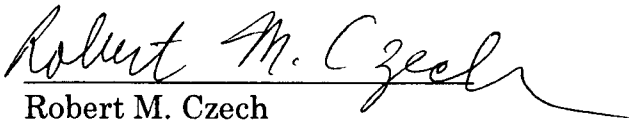
to waive all accumulated seniority and all accrued sick leave. Accordingly, accumulated seniority and sick leave do not transfer. *See N.J.A.C. 4A:4-7.4(c).*

ORDER

Therefore, it is ordered that this request, seeking the transfer of Joseph R. Wagner, to Beverly, be granted.

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 7th DAY OF OCTOBER, 2015



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