

B-81



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Data Processing
Technician (Special), City of Newark

Salary Disapproval

CSC Docket No. 2015-2569

ISSUED: **DEC 17 2015**

(WR)

The appointing authority's failure to dispose of the certification for Data Processing Technician (Special), City of Newark, while provisionals are serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement.

The Commission has reviewed the salary disapprovals issued against the salaries of Shamecha Jones¹ and Porscha Fleming and has made the following findings of fact:

1. The appointing authority attempted to appoint Jones and Fleming to the non-competitive title of Data Processing Technician. However, the requests were rejected since a special reemployment list for the title of Data Processing Technician existed.
2. There are vacancies for the title of Data Processing Technician and an outstanding certification was issued on March 28, 2014 from the special reemployment list.

¹ The appointing authority indicates that its records indicate that Jones is currently serving as Telephone Operator. It is noted however, that agency records do not have an entry for her name and that Fleming continues to serve as a Data Processing Technician.

3. The certification has not been properly disposed of and the appointing authority was advised of the required date of disposition.
4. The Certification Manager issued a Notice of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such action to the Commission.
5. No such appeal was taken, and no proper disposition of the certification was received; the salary disapproval, therefore, became a final administrative action.
6. By not properly disposing of this certification, the appointing authority is in violation of Civil Service law and rules.

In the instant matter, the appointing authority has refused to properly dispose of the certification issued to fill a vacancy occupied by a provisional employee. The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salaries for which there is a disapproval is illegal and contravenes Civil Service law and rules.

The appointing authority, despite being given the opportunity, did not submit any arguments or documentation for the Commission's review.

ORDER

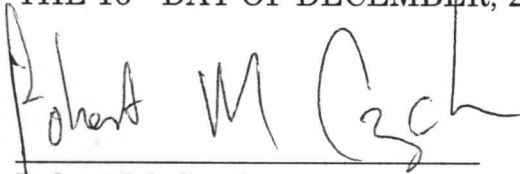
The Civil Service Commission orders the appointing authority to immediately dispose of the outstanding certification by making a permanent appointment of a reachable and interested eligible. Additionally, the appointing authority is ordered to immediately separate Fleming. Such disposition must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. If no proper disposition is made within this time period, the Civil Service Commission orders the constructive appointment of the highest ranked interested eligible. See *N.J.A.C. 4A:10-2.1(a)3; In the Matter of Battalion Fire Chief (PM1640E), Deputy Fire Chief (PM1423H), Atlantic City*, Docket No. A-229-87T7 (App. Div. December 8, 1988).

The Civil Service Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-3.2(a)5*, to be remitted within thirty (30) days of the issuance of this order. In the event the appointing authority fails to make a good faith effort to fully comply with this order within this time frame, it is additionally ordered that fines be assessed in the amount of one hundred dollars (\$100.00) per day, beginning on the thirty-first day following the

issuance of this order and continuing each day of continued violation, up to a maximum of ten thousand dollars (\$10,000.00). See *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2; In the Matter of Fiscal Analyst (M1351H), Jersey City, Docket No. A-4347-87T3* (App. Div. February 2, 1989). This matter will be referred to the Office of the Attorney General for enforcement and for recovery of illegal payments and fines as assessed herein if full compliance is not effected within thirty days.

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 16th DAY OF DECEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

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and
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c: Shamecha Jones
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