



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Silvester Fonville,
Atlantic City

CSC Docket No. 2016-949

Administrative Appeal

ISSUED: **OCT 25 2016** (LDH)

Silvester Fonville requests a retroactive appointment date of September 22, 2013 to the title of Fire Captain and that he be admitted to the promotional examination for Battalion Fire Chief (PM1490T), Atlantic City.

By way of background, 116 applicants, including Fonville, applied for the promotional examination for Fire Captain (PM5208N), Atlantic City, which had a closing date of August 22, 2011. The resulting eligible list of 58 names promulgated on December 20, 2012 and expired on December 19, 2015. Fonville's name appeared as the 13th ranked eligible. Certifications were issued to the appointing authority on January 18, 2013, April 24, 2013 and August 19, 2013, and several appointments were made from them. It is noted that Fonville's name did not appear on those certifications. On September 13, 2013, a certification (PL131129) containing Fonville's name as the second listed eligible was issued to the appointing authority.¹ The appointing authority returned the certification, requesting that it be cancelled due to budgetary constraints. A certification (PL150835), containing Fonville's name was issued to the appointing authority on July 21, 2015. However, it has not yet been disposed of.

Thereafter, the promotional examination for Battalion Fire Chief (PM1490T), Atlantic City, was announced with a closing date of September 30, 2015, and was

¹ It is noted that Andrew Bisciegli's name appeared on the September 13, 2013 certification as the first listed veteran in error. In this regard, the Civil Service Commission in *In the Matter of Andrew Bisciegli*, (CSC, Decided July 15, 2015) removed Mr. Bisciegli from the August 19, 2013 certification, on the basis of an unsatisfactory background.

open to applicants who possessed one year of permanent service in the title of Fire Captain, as of the closing date. However, Fonville was deemed ineligible as he was not permanent in the title of Fire Captain as of the closing date.

On appeal to the Civil Service Commission (Commission), Fonville contends that he has served in the permanent position of Fire Captain since September 22, 2013. Though the record reveals that he was provisionally appointed to the title of Fire Captain, he maintains that the appointing authority is in the process of "updating the system." In support, he submits, *inter alia*, a letter from Arch Liston, Business Administrator for the appointing authority, stating that Fonville should be permanent in the title of Fire Captain retroactive to September 22, 2013. Liston maintains that due to a change in administrations, Fonville's appointment was not properly recorded. Finally, Liston maintains that Fonville successfully completed his working test period.

Additionally, Fonville requests that his application be processed and he be admitted to the Battalion Fire Chief (PM1490T), Atlantic City examination.

The Division of Agency Services supports Fonville's request.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C.* 4A:4-3.4 provide that an eligible list may be revived in order to implement a court order or decision of the Civil Service Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. Additionally, *N.J.A.C.* 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause.

In the instant matter, the record establishes that Fonville's name appeared on the eligible list for Fire Captain (PM5208N), Atlantic City. However, although Fonville was appointed to the title of Fire Captain on September 22, 2013, due to an administrative error, the appointing authority failed to properly appoint him from the September 13, 2013 certification (PL131129). In this regard, the appointing authority confirms that, due to "change in the administration," Fonville's appointment as a Fire Captain was not correctly recorded as being a regular appointment. There is sufficient evidence in the record that Fonville has been successfully serving as a Fire Captain since September 22, 2013 and has passed his working test period. Therefore, based on the foregoing, ample cause exists to grant Fonville a retroactive date of permanent appointment to the title of Fire Captain. Accordingly, Fonville's permanent appointment should be recorded as September 22, 2013.

Finally, as Fonville is deemed to have been permanent in the title of Fire Captain since September 22, 2013, the Commission finds that he should be admitted to the promotional examination for Battalion Fire Chief (PM1490T), Atlantic City.

ORDER

Therefore, it is ordered that this request be granted and the Fire Captain (PM5208N), Atlantic City eligible list be revived in order to record the permanent appointment of Silvester Fonville to the title of Fire Captain effective September 22, 2013. Additionally, it is ordered that he be admitted to the promotional examination for Battalion Fire Chief (PM1490T), Atlantic City.

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 19TH DAY OF OCTOBER 2016



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