



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Michael Brightly and  
Jonathan Baez, Atlantic County

Administrative Appeals

CSC Docket Nos. 2016-2294 and  
2016-2517

ISSUED: **NOV 29 2016** (SLD)

Atlantic County requests retroactive permanent appointment dates for Michael Brightly and Jonathan Baez to the title of Road Repairer 1, effective September 18, 2014.

By way of background, the appellants received regular appointments to the non-competitive title of Laborer 1, effective March 4, 2013. Brightly and Baez were provisionally appointed, pending promotional examination procedures, to the title of Road Repairer 1, effective April 7, 2014 and April 10, 2014, respectively. On June 1, 2014, an examination (PC0722S) for the title of Road Repairer 1 was announced with a closing date of June 21, 2014. The examination was open, in part, to individuals who possessed one year of continuous permanent service in the title of Laborer 1 and who possessed one year of experience in the cleaning, maintenance, and repair of roads or streets which may include work involving the installation and maintenance of traffic lines and signs, or one year of experience as a laborer in a public works department. Although Baez did not apply for the examination, three individuals, including Brightly applied for the examination. Upon review of the applications it was determined that Brightly was ineligible as he had failed to list his service as a Laborer 1 on his application, and none of his listed experience was considered applicable. The resulting eligible list of two names promulgated on September 11, 2014 and expires on September 10, 2017. A certification (PL141170) containing the two names<sup>1</sup> was issued to the appointing authority on September 18,

<sup>1</sup> Agency records indicate that the two eligibles whose names appeared on the certification had been provisionally appointed, pending promotional examination procedures to the subject title, effective April 15, 2015.

2014. The appointing authority returned the certification, indicating that both eligibles received regular appointments to the subject title, effective September 18, 2014.

Brightly appealed his ineligibility for examination, and in *In the Matter of Michael Brightly, Road Repairer 1 (PC0722S), Atlantic County* (CSC, decided November 6, 2014), the Civil Service Commission (Commission) granted his appeal, noting that, based on information he had submitted on appeal, he met the experience requirements as of the closing date. Subsequently, on May 26, 2015, Brightly's name was certified (PL150592) to the appointing authority from the Road Repairer 1 (PC0722S) eligible list. The appointing authority returned the certification indicating that it was appointing Brightly, effective May 26, 2015.

On May 1, 2015, an examination (PC0828T) for the title of Road Repairer 1 was announced with a closing date of May 21, 2015. The examination was open, in part, to individuals who possessed one year of continuous permanent service in the title of Laborer 1 and who possessed one year of experience in the cleaning, maintenance, and repair of roads or streets which may include work involving the installation and maintenance of traffic lines and signs, or one year of experience as a laborer in a public works department. Baez was the only applicant. The resulting eligible list of one name promulgated on October 1, 2015 and expires on September 30, 2018. A certification (PL151109) containing the one name was issued to the appointing authority on October 7, 2015. The appointing authority returned the certification, indicating that Baez was appointed, effective October 7, 2015.

Thereafter, Brightly and Baez requested retroactive appointment dates of September 18, 2014, to coincide with the provisional employees who were appointed from the first certification. Brightly argues that there was a six-month delay from when the Commission granted his appeal, to when he was finally certified to the appointing authority, thereby resulting in him not being appointed until May 2015, placing him at a disadvantage as compared to the other employees who were similarly situated. Baez asserts that he was on military leave with the New Jersey National Guard from June 1 through 23, 2014, and thus, did not see the announcement for the PC0722S examination. In support, the appellants submit letters from the department head of the Department of Public Works which support their request for retroactive dates of appointment and the appointing authority has also indicated its support of the appellants' requests. Baez also submits documentation that he was on military leave from June 1 through June 23, 2014.

## CONCLUSION

*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. Generally, the award of a retroactive appointment date is for

seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an administrative error, he or she received a later appointment date.

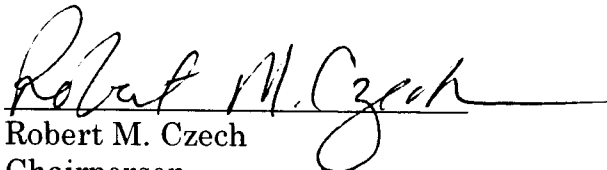
In the instant matter, the record establishes that Baez was on military leave from June 1 to 23, 2014 and that the PC0722S examination was announced on June 1, 2014 with a closing date of June 21, 2014. If Baez or the appointing authority had requested that Baez be allowed to file a late application upon his return from military leave on June 23, 2014, that request would have been granted. However, no request was filed, until the instant request. Regardless, both Brightly and Baez were serving provisionally in the subject title at the time of the closing date of the examination, and continued to serve provisionally until their respective regular appointments to the subject title. Moreover, the PC0722S eligible list was exhausted when the appointing authority appointed the two eligibles on the list, effective September 18, 2014. Furthermore, the appointing authority supports the appellants' request. Therefore, based on the foregoing, ample cause exists to grant the appellants retroactive dates of permanent appointment to the title of Road Repairer 1. The appellants have completed their working test periods as a Road Repairer 1. Consequently, the appellants' permanent appointments should be recorded as September 18, 2014.

### ORDER

Therefore, it is ordered that these requests be granted and the permanent appointments of Michael Brightly and Jonathan Baez, to the title of Road Repairer 1, be recorded as September 18, 2014.

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 23RD DAY OF NOVEMBER, 2016



Robert M. Czech

Chairperson  
Civil Service Commission

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