



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Customer Service
Representative (C0764T), Atlantic
County

CSC Docket No. 2017-196

Appointment Waiver

ISSUED: DEC 23 2016 (RE)

Atlantic County requests permission not to make an appointment from the April 7, 2016 certification for Customer Service Representative (C0764T).

The record reveals that Atlantic County provisionally appointed Izaak Shahdin, pending open-competitive examination procedures, to the title of Customer Service Representative, effective April 13, 2015. As a result of the provisional appointment, an examination was announced with a closing date of October 19, 2016. The resulting eligible list of seven eligibles, including Shahdin, promulgated on April 7, 2016 and expires on April 6, 2019. Atlantic County took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On April 7, 2016, the names of all seven eligibles were certified from the eligible list. Atlantic County returned the certification and requested a waiver of the appointment requirement and costs due to fiscal constraints. Specifically, it maintained that Izaak Shahdin was the provisional and was separated on June 30, 2016 due to a layoff action.¹

Atlantic County's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. In response, Atlantic County explained that a condition of the layoff was to first separate provisional employees.

¹ Personnel records indicate that three temporary employees and six provisional employees were separated. Additionally, two positions were targeted in the Department of the Administrator.

Therefore, Mr. Shahdin was separated on June 30, 2016, the date of the layoff, and the list was not utilized.

Personnel records reveals that there are no employees serving provisionally in the subject title with Atlantic County.

CONCLUSION

In accordance with *N.J.S.A. 11A:4-5*, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the title of Customer Service Representative was generated as a result of the provisional appointment of Shahdin. After a complete certification was issued, Atlantic County indicated that Shahdin had been terminated from employment and that due to budgetary constraints it would not make an appointment. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

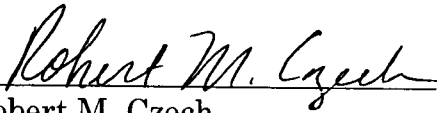
Although the appointment waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, Shahdin was still serving provisionally at the time of the certification. Atlantic County maintains that it underwent a layoff, which separated provisional employees and therefore, it should not be charged for the costs of the selection process. Although the Commission agrees that it would not be appropriate to assess Atlantic County for the total costs of the selection process due to its layoffs, it is appropriate to assess Atlantic County partial costs in the amount of \$1,024. See e.g., *In the Matter of Senior Clerk Typist (M1200H) & (M1576J), Borough of South Plainfield* (CSC, decided January 13, 2010) (Partial costs assessed as South Plainfield had undergone a recent layoff); *In the Matter of Housing Assistance Technician (M1259H), City of Orange Housing Authority* (MSB, decided January 16, 2008) (Partial costs assessed due to a recent layoff).

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that Atlantic County be assessed for the costs of the selection process in the amount of \$1,024 to be paid within 30 days of the issuance of this decision.

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 21st DAY OF DECEMBER, 2016


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