

B-44



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jamie McNemer,
Road Repair Supervisor (PC2170T),
Ocean County

CSC Docket No. 2016-3749

Examination Appeal

ISSUED: DEC 13 2016

(RE)

Jamie McNemer appeals the determination of the Division of Agency Services (DAS) which found that he was below the experience requirements for the promotional examination for Road Repair Supervisor (PC2170T), Ocean County.

The subject examination announcement was issued with a closing date of October 21, 2015 and was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the closing date in the title Road Repairer OR in any competitive title and who met the announced requirements. These requirements were four years of experience in the construction, repair, and maintenance of roads or streets which may include work involving the installation and/or maintenance of traffic lines and signs, one year of which shall have been in a lead worker capacity. The appellant was found to be ineligible based on a lack of applicable experience. Eight candidates appear on the eligible list, which has been certified once, but no appointments have yet been made.

On his application, Mr. McNemer listed experience in ten positions on his application: four positions as Motor Broom Operator, and three positions as Acting Supervisor, Equipment Operator, Laborer, and Chief of Department with L. E. H. Bofc. [Board of Fire Commissioners] Dist. 3. (part time, 20 hours a week). Official records indicate that the appellant held three positions with Ocean County: Motor Broom Driver, Equipment Operator, and Laborer. The appellant was credited with 2 years, 8 months of general experience when he was an "acting supervisor" and

Equipment Operator. Thus, he was found to be lacking 1 year, 4 months of general experience, and 1 year of lead worker experience.

On appeal, Mr. McNemer stated that he had been a lead worker in the title Motor Broom Driver due to business necessity. He provided a letter from the appointing authority which states that the most experienced and skilled employees are in the titles Motor Broom Driver and Heavy Equipment Operator, and they are expected to be lead workers. Staff responded that experience as a Motor Broom Driver, while including maintenance of roads or streets, did not include construction and repair of roads or streets. The positions as a Laborer and Fire Chief were inapplicable as they did not have the announced experience requirement as the primary focus. He was told that the titles Motor Broom Driver and Equipment Operator are not lead worker titles. As such, any asserted lead worker experience in these titles would be considered out of title work.

The appellant responded that the job specification for Motor Broom Driver includes the following, "NOTE: The examples of work for this title are for illustrative purposes only. A particular position using this title may not perform all duties listed in this job specification. Conversely, all duties performed on the job may not be listed." He argues that, based on the last sentence, lead worker duties may be performed in this title. He also submits a letter from his supervisor which reads, "Jamie has been the lead worker in his crew for at least the last 5 years. He has great leadership skills as well as a great skill set." No further information regarding his lead worker duties were given. The appellant argues that he has served as a lead worker for seven and a half years, and has never been told he cannot do so.

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that except when permitted for good cause, applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements.

CONCLUSION

A review of the appellant's application reveals that he does not meet the announced requirements. For promotional examination purposes, experience is considered only if it is gained in a recognized type of appointment. Taking the lead is the distinguishing characteristic which is present in the definitions of titles. A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves. Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position.

However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Being a lead worker involves mentoring others in work of the title series. Positions are classified as lead worker titles. Thus, if an individual performs lead worker duties when not in a position classified as a lead worker title, it is considered to be out-of-title work. Thus, if the appellant performed lead worker duties while in the Motor Broom Driver title, it is considered to be out-of-title work, which cannot be used to satisfy eligibility requirements for a promotional examination. The examination is competitive, with eight applicants and the appellant has not presented a basis for accepting out-of-title experience. Mr. McNemer lacks one year of applicable experience as a lead worker as well as 1 year, 4 months of general experience as of the closing date.

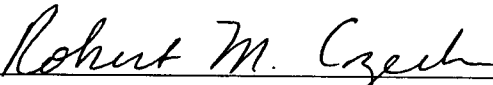
An independent review of all material presented indicates that the decision of DAS, that the appellant did not meet the announced requirements for eligibility by the closing date, is amply supported by the record. The appellant provides no basis to disturb this decision. Thus, the appellant has failed to support his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

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 DECEMBER, 2016



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