

B-73



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Daniel DeOrio,  
Fire Officer 3 (PM2747T),  
North Hudson Regional Fire and  
Rescue Service

Examination Appeal

CSC Docket No. 2017-693

ISSUED: DEC 13 2016 (RE)

Daniel DeOrio appeals his score on the examination for Fire Officer 3 (PM2747T), North Hudson Regional Fire and Rescue Service. It is noted that the appellant passed the examination with a final average of 88.520 and ranked fourth on the resultant eligible list.

The subject promotional examination was held on May 26, 2016 and eight candidates passed. This was an oral examination designed to generate behaviors similar to those required for success in a job. The examination consisted of four scenario-based oral exercises; each was developed to simulate tasks and assess the knowledge, skills and abilities (KSAs) important to job performance. These exercises covered four topic areas: 1) Incident Command – Non-fire Incident, 2) Supervision, 3) Administration, and 4) Incident Command – Fire Incident.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, fire fighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable in the technical component for some scenarios, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

This examination was given using the chain oral testing process, and candidates were given ten minutes to respond to each question. Candidate responses to each question were rated on a five-point scale (1 to 5) from nil response through optimum according to determinations made by the SMEs. Oral communication for each question was also rated on the five-point scale. This five-point scale includes 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received the following scores for the technical component for each question, in order: 3, 4, 5, and 5. He received the scores of 5, 5, 5, and 5 for the oral communication components.

The appellant challenges his scores for the technical components for the Incident Command – Non-fire Incident and Supervision scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The Incident Command-Non-fire Incident scenario concerned a reported motor vehicle accident. It is 2:00 AM on a day in February, the temperature is 22 degrees Fahrenheit and there is no wind. The candidate arrives with the first responding alarm and finds a single vehicle accident, with the vehicle partially inside the side B wall of a three-story, brick, ordinary construction building built in the 1930s. The first floor is a Laundromat with electric washing machines and gas dryer units. The second and third floors each contain two apartment units. Upon closer investigation, the candidate discovers that the car has severed the interior gas line before the meter, causing a significant leak of natural gas from the piping within the structure. There is a single occupant in the car who is dazed and semi-conscious, and located in the driver's side of the vehicle. The car is still running. The question asks candidates to base their responses on the text *Fire Officer's Handbook of Tactics* and their experience. Question 1 asks for specific actions to take at the incident. Question 2 indicates that it is 20 minutes after the initial alarm and the building unexpectedly explodes. The whereabouts of two firefighters are unknown and there is extensive damage to the building and immediate exposures. This question asks for specific actions to take based on this new information. Instructions to candidates state that, in responding to the questions, they should be as specific as possible and not assume or take for granted that general actions will contribute to a score.

The assessor noted that the appellant failed to search and remove surface victims, which was a mandatory response to question 2. He also noted that the appellant missed the opportunity to assess the structural stability of the building, which was an additional response to question 1. He used the "flex" rule to assign a score of 3. On appeal, the appellant argues that he stated that in response to question 1, he was aware of indicators of collapse, had the structure monitored by

the safety officer, assured stability of the structure by bracing it, identified collapse hazards, and mentioned "awareness of vibration and elimination." In response to question 2, he states that he deemed the building safe, acknowledged explosion and damage to the structure and exposure D, assigned a safety officer, and monitored the building for signs of collapse. Additionally, the appellant argues that he performed primary and secondary searches and removed the victims to EMS, and he took steps to search and remove surface victims by conducting rescue operations, acknowledging the explosion, conducting atmospheric monitoring, establishing a victim tracking coordinator, mentioning the effects of falling glass and debris, rescuing and removing occupants of the building and exposure D, performing a primary search, and completing the evacuation process.

Regarding the flex rule, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. However, the SMEs cannot provide a score higher than a 3 in those cases.

As to the appellant's response, again, it is emphasized that credit is not given for information that is implied or assumed. The appellant received credit for evacuating the building and surrounding structures, eliminating ignition sources, and rescuing the victim from the car. These were all mandatory responses to question 1. Assigning a safety officer was an additional response to question 1 for which the appellant also received credit. However, none of these actions are the same as searching and removing surface victims after the building exploded. In response to question 2, the appellant stated that he would "...readjust incident management priorities for rescue, assign a battalion chief in charge of rescue operations..." but this, as well as the other actions listed by the appellant in his appeal, do not specifically address removal of the surface victims.

Additionally, prior to the explosion, the appellant did not state that he would assess the structural stability of the building, for example, call for a building engineer, based solely on the fact that there was a car partially through side B, in response to question 1. The SMEs did not identify assessing the structural stability of the building after the explosion as a specific action to be taken. Acknowledging the explosion and monitoring for signs of collapse after the explosion were actions taken in response to question 2, and do not address the structural stability of the building prior to the explosion. In response to question 1, the appellant stated, "Have a collapse rescue unit in scene, on the scene, bracing and shoring where the collapse, excuse me, where the car accident has happened. Assure we're using struts. Assure the building is deemed safe. Ladder companies are going to be utilizing search and rescue procedures." In this passage, the appellant assures the

building is deemed safe, but he does not say how that would happen. That is, he did not *assess* the structural stability of the building. Even if he had, he missed the mandatory response of searching and removing surface victims for question 2, and as a result cannot receive a score higher than 3. His score for this component is correct.

The Supervision scenario indicated that the candidate who was a newly-promoted Deputy Fire Chief directly supervising four Battalion Fire Chiefs (BCs) who serviced for commanders. One of them, BC Bruno, was recently promoted from the rank of Fire Captain (FC) and is tour commander of Tour 2. He has focused on the implementation of the principles of customer service, and advocates that it is the way to develop political power to expand the Fire Department's personnel and resources. He instructs his Fire Captains to be out with their crews in the community full-time and being as helpful to the citizens as possible. A FC under BC Bruno, FC Freid, is a senior company officer with over 30 years of service and is a union president. He comes to the candidate to complain about the changes implemented by his supervisor. "He wants us to do things that are way out of our job description/contract, like give civilians rides when they are caught in the rain," says FC Freid. He also states, "I want to serve the public too, but as a fire company." He tells the candidate that there is widespread discontent about the increased workload and the loss of "free time." Another BC, tour commander of Tour 3, complains that BC Bruno's tour has slacked off on routine station maintenance duties, adding that they have an attitude of "we do plenty of work outside of the firehouse." The candidate decides to hold a one-on-one meeting with BC Bruno. In the meeting, the candidate discusses the appropriateness of the customer service he is having his tour perform. As part of the discussion with BC Bruno, the candidate reviews the Customer Service Model. Candidates were instructed to base their responses on the texts, *Managing Fire and Emergency Services*, *The Fire Chief's Handbook*, and their experience. Question 1 indicated that the Customer Service Model specifically states what fire department members should consider when determining whether or not to perform additional customer services for the community. This question asked for these considerations. Question 2 stated that while this is not an approved program, you believe that a program like this would be very beneficial to the department. This question asked what else should be discussed in a meeting with BC Bruno regarding the program and the issue with the Tour 3 BC based on this information. Again, candidates were instructed to be as specific as possible, and not assume or take for granted that general actions will contribute to a score.

For this scenario, the assessor indicated that the candidate did not emphasize that routine fire department duties must not be neglected for question 2. On appeal, the appellant argues that he reviewed maintenance reports and records and assured their compliance, eliminated the prior ways of BC Bruno, stated that

policies and procedures needed to be followed, and scheduled a meeting with the Division.

In reply, none of the actions listed by the appellant indicate that he emphasized that routine fire department duties must not be neglected in his discussion with BC Bruno regarding the program. The appellant's response of telling BC Bruno that his actions must be halted, and violations of policies and procedures would not be tolerated, contributed to his score of 4. Emphasizing to him that routine fire department duties must not be neglected is a separate specific action that the appellant did not mention. Telling the Division members of the expectations of following training programs, and policies and procedures, does not underscore to BC Bruno that he specifically must not neglect routine fire department duties. The appellant missed the action noted by the assessor and his score of 4 will not be changed.

### CONCLUSION

A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet 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  
THE 7<sup>th</sup> DAY OF DECEMBER, 2016

  
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