



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Tina Mutcherson,
Cottage Training Supervisor (Special)

List Removal Appeal

CSC Docket No. 2017-2910

ISSUED: OCT 06 2017 (HS)

Tina Mutcherson appeals the removal of her name from the special reemployment list for Cottage Training Supervisor on the basis that she failed to respond to certification notices.

The appellant, a non-veteran, appeared on the Cottage Training Supervisor special reemployment list.¹ The appellant's name was certified to the Woodbine Developmental Center (WDC) on July 24, 2015 (PS151050) and to the New Lisbon Developmental Center (NLDC) on August 5, 2015 (PS151130). In disposing of the certifications, the appointing authorities requested the removal of the appellant's name on the basis that she failed to respond to the certification notice. The dispositions of certifications PS151050 and PS151130 were recorded by this agency on April 6, 2016 and April 8, 2016, respectively.

In her appeal to the Civil Service Commission (Commission), postmarked March 16, 2017, the appellant states, among other things, that her name was never certified to the Vineland Developmental Center (VDC). She states that her wish is to stay in her home base, which is VDC, with the Cottage Training Supervisor title.

In response, WDC states that it requested the removal of the appellant's name on the basis of non-response to certification notice PS151050. However, it

¹ Agency records indicate that the appellant was demoted from the subject title, in lieu of layoff, with the Vineland Developmental Center effective January 10, 2015.

also indicates that it does not oppose the restoration of the appellant's name to the subject special reemployment list.

In response, NLDC maintains that it administered certification PS151130 without administrative error. It states that as it did not receive a response to the certification from the appellant, it had no choice but to request the removal of her name. NLDC argues that the appellant's appeal is untimely and should not be heard and that it is entitled to dispose of the certification without any disturbances to the final disposition. Further, it notes that the appellant has apparently requested the restoration of her name to the Cottage Training Supervisor special reemployment list for VDC (Cumberland County). NLDC indicates that it does not oppose the restoration of the appellant's name to any special reemployment list, *except* restoration to the list for NLDC (Burlington County).

CONCLUSION

N.J.A.C. 4A:4-6.6(a)1 provides, in pertinent part, that an appeal shall be filed within 20 days of notice of the action, decision or situation being appealed.

N.J.A.C. 4A:8-2.3(c)3 provides that removal of names from a special reemployment list may be made in accordance with applicable rules (*see N.J.A.C.* 4A:4-4.7 and 4A:4-6). *N.J.A.C.* 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove her name from an eligible list was in error.

N.J.A.C. 4A:1-1.2(c) provides that the Commission may relax a rule for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, it should be noted that the appellant's name could properly be removed from the subject special reemployment list due to her failure to respond to the certification notices. In this regard, certification notices instruct eligibles to respond to the appointing authority within five business days letting it know whether or not the eligible is interested in the position; the notices also indicate that failure to do so would result in the removal of the eligible's name from the list. *See N.J.A.C.* 4A:8-2.3(c)3, *N.J.A.C.* 4A:4-6 and *N.J.A.C.* 4A:4-4.7(a)6. Further, the instant appeal is untimely as it was not filed within 20 days of the respective dispositions of certifications PS151050 and PS151130. *See N.J.A.C.* 4A:4-6.6(a)1. Nevertheless, WDC indicates that it does not oppose the restoration of the appellant's name to the subject special reemployment list. NLDC indicates that it does not oppose the restoration of the appellant's name to the subject special

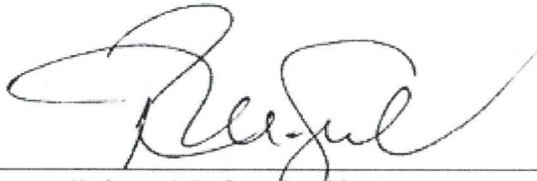
reemployment list, excepting Burlington County. Under these particular circumstances, it is appropriate to relax the time for appeal and restore the appellant's name to the subject special reemployment list. However, the appellant's name shall be removed from future certifications from the subject special reemployment list for the NLDC job location (Burlington County).

ORDER

Therefore, it is ordered that the appellant's name be restored to the special reemployment list for Cottage Training Supervisor. Additionally, it is ordered that the appellant's name be removed from future certifications from the special reemployment list for Cottage Training Supervisor for the New Lisbon Developmental Center job location (Burlington County).

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 4TH DAY OF OCTOBER, 2017



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