



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Carlos Ramos,
Fire Fighter (M2554M), Newark

CSC Docket Nos. 2016-2117 and
2017-2707

List Removal Appeal

ISSUED: OCT 10 2017 (WR)

Carlos Ramos, represented by Lynsey Stehling, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M2554M), Newark.

The open-competitive examination for Fire Fighter (M2554M), Newark, was announced with a closing date of March 31, 2010 and was open to residents of Newark. Applicants were required to maintain continuous residency up to the date of appointment. See *N.J.A.C. 4A:4-2.11(e)1*. The appellant, a nonveteran, passed the subject examination and ranked 331 on the resulting eligible list, which promulgated on December 13, 2011 and expired on December 12, 2015. A certification of the eligible list was issued on July 11, 2014. The appellant was listed in the 122nd position on the certification. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he was outside the residency scope. Specifically, the appointing authority relied on the appellant's sworn statement in his employment application that he lived in Bloomfield, New Jersey from May 2009 until May 2010.¹

On appeal to the Civil Service Commission (Commission), the appellant contends that he resided in Newark at all relevant times. Specifically, he argues that he moved from Bloomfield, New Jersey to Newark on or about March 1, 2010, where he lived with his fiancé and her family in their house until May 2010. The appellant asserts that he received bills at their residence and kept his clothes and

¹ The appellant indicated that he resided on Davey Street in Bloomfield, New Jersey from May 2009 through April 2010 and on North 11th Street in Newark from May 2010 through the present.

other personal belongings there. Thereafter, he states that he and his fiancé moved into a house in Newark that they purchased and have lived without interruption since.

The appellant concedes that he indicated in his employment application that he resided in Bloomfield from May 2009 through April 2010, but contends he “mistakenly failed to reflect the fact that he was residing” with his fiancé and her family from March 2010 to May 2010. He notes that his fiancé’s daughter, who he has raised since birth, attended public school in Newark during all relevant times and his fiancé is a City of Newark employee. Finally, the appellant argues that he is currently a Fire Fighter in Kearny, New Jersey and is qualified to perform the job duties of a Fire Fighter in Newark. In support of his appeal, the appellant submits copies of various bills, statements, and documents reflecting a Newark address.² The appellant also submits certifications from himself, his fiancé and his fiancé’s father.

In response, the appointing authority, represented by France Casseus, Esq., reiterates its position that the appellant should be removed from the subject eligible list for failing to maintain residency in Newark from March 2010 to May 2010. Chiefly, it states that the appellant indicated in his application, submitted under oath, that he lived in Bloomfield during that time. It also asserts that a TransUnion credit report indicates his residence was in Bloomfield from 2008 until late 2010 and a motor vehicle inquiry for the appellant obtained in August 2014 reflected the Bloomfield address as his residential address and a Newark address, the house he and his fiancé had purchased, as his mailing address.

Additionally, the appointing authority contends that the certifications that the appellant submits are biased and self-serving, and argues that he provides no independent evidence to corroborate his claims of Newark residency in March or April 2010. Moreover, it argues that the one credit card statement he provides that dates to the timeframe at issue is not dispositive, as he does not provide any other indication of Newark residence during the time at issue. It argues that all of the other documentation the appellant submits is irrelevant to proving that he lived in Newark from March 2010 to May 2010 because it is dated after that timeframe. The appointing authority further contends that there is no evidence that the appellant spent a majority of his time in Newark or would have remained living in Newark if the residency requirement were abolished, as he had an apartment outside of Newark and is employed as a Fire Fighter in Kearny. Finally, the appointing authority observes that neither his fiancé or her daughter resided with the appellant in Bloomfield. Rather, they resided in Newark.

² His submission includes an undated credit card statement, addressed to him at his fiancé’s parent’s house on 7th Avenue West in Newark, concerning a billing period from March 20, 2010 to April 19, 2010. It is noted that the other documents reflect dates after May 2010. The Commission further notes that the appellant failed to indicate that he resided at the 7th Avenue West residence in Newark on his employment application.

In response, the appellant contends that the appointing authority's reliance on the TransUnion credit report is misplaced, but states that he "cannot explain why the section entitled 'Addresses Reported' does not refer to his Newark address until late 2010." The appellant also rejects the appointing authority's argument that he did not have a sufficient connection to the Newark residence he claims to have lived at between March 2010 and May 2010 in light of the certifications he submitted. The appellant argues that the fact that he rented an apartment for a short period of time in Bloomfield is irrelevant and reiterates his ties to Newark. Regarding the motor vehicle report, the appellant concedes that it reflects his Bloomfield address, but notes that it also reflects the address of the house he bought in Newark. He contends that when he moved to Newark in March 2010, he changed his address with the Motor Vehicle Commission online and believes he completed the change correctly. Finally, the appellant argues that the Newark Fire Department Detective charged with investigating his background performed a cursory investigation and the investigation should therefore be disregarded.

CONCLUSION

N.J.A.C. 4A:4-2.11(c) provides in relevant part that where residency requirements have been established in local service, residence with regard to local service requirement means a single legal residence. The following standards shall be used in determining local legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner (*see* section 4 of P.L. 2003, c.246), a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and

6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

See e.g., In the Matter of Roslyn L. Lightfoot (MSB, decided January 12, 1993) (Use of a residence for purposes of employment need and convenience does not make it a primary legal residence when there is a second residence for which there is a greater degree of permanence and attachment). *See also, In the Matter of James W. Beadling* (MSB, decided October 4, 2006). Moreover, *N.J.A.C. 4A:4-2.11(e)1* states that unless otherwise specified, residency requirements shall be met by the announced closing date for the examination. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. Additionally, *N.J.A.C. 4A:4-4.7(a)7* provides that discontinuance of an eligible's residence in the jurisdiction to which an examination was limited or for a title for which continuous residence is required is a cause for disqualification from an eligible list. Moreover, *N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)6*, allows the Commission to remove an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *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 his or her name from an eligible list was in error.

At issue in the instant matter is whether the appellant was a resident of Newark from March 31, 2010 through May 2010. On appeal, the appellant submits certifications from his fiancé and his fiancé's father, both of whom state that the appellant lived with them in Newark during this time. He also submits, in pertinent part, a credit card statement concerning a billing period from March 20, 2010 to April 19, 2010 that was addressed to him at his fiancé's and her father's residence in Newark. The appointing authority argues that the appellant indicated in his employment application, submitted under oath, that he lived in Bloomfield during the relevant timespan and also refers to the TransUnion credit report and the motor vehicle report which also reflect his residence in Bloomfield.

The Commission finds that the appellant has not convincingly explained why he indicated that he lived in Bloomfield during the relevant time period and why the credit report and the motor vehicle report reflect his residence as Bloomfield. Furthermore, the appellant has not explained why he did not list the 7th Avenue West, Newark address on his application. Against these shortcomings, the certifications that the appellant submits are not persuasive, especially considering that they are not buttressed with any supporting documentation. The Commission observes that the one credit card statement for the relevant time period sent to the appellant at a Newark address after April 19th does not establish residence, but

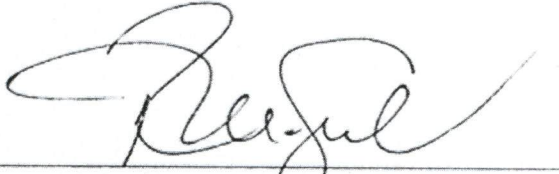
rather only that he received mail at that address. Therefore, the appellant has failed to meet his burden of proof in this matter and a sufficient basis exists in the record to remove the appellant's name from the eligible list for Fire Fighter (M2554M), Newark.

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 4th DAY OF OCTOBER, 2017



Robert M. Czede, Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher Myers
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Records Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Carlos Ramos
Lynsey Stehling, Esq.
France Casseus, Esq.
Jack Kelly
Kelly Glenn

