



STATE OF NEW JERSEY

In the Matter of Christopher Heger
and Paul Jensen, Police Sergeant
(PM2041V), Jersey City

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket Nos. 2018-865 and
2018-863

Examination Appeal

ISSUED: November 2, 2017 (JH)

Christopher Heger and Paul Jensen, represented by David M. Bander, Esq., request that they be permitted to submit applications for the promotional examination for Police Sergeant (PM2041V), Jersey City, after the application filing deadline.

By way of background, the announcement for the subject examination was issued on July 1, 2017 with an application filing deadline of July 21, 2017 and all applications had to have been received by that date. It is noted that the appellants were conditionally admitted to the subject examination which was administered on October 28, 2017.

On appeal, Messrs. Heger and Jensen argue that “the City did not provide adequate notice of the promotional examination and the deadline to apply.” In this regard, they contend that in previous years, “the practice has been for the [Police] Department to announce the examination at roll call and other gatherings; and to announce it over the radio on every shift; and to prominently post written notices across the Department and on several bulletin boards; and to require officers to sign up for the examination in person. This year, however, the Department did not engage in any of these practices. Despite the fact that the Commission announced the examination on July 1, 2017, the City waited approximately 2 weeks before notifying its officers. The Department did no more than to send an email to officers on Friday, July 14, 2017, notifying them of the examination. It did not follow up in any way, nor advertise the examination using other means as it has in the past.” Specifically, Mr. Heger presents that he was “injured in a car accident on July 8,

2017, and did not return to work until July 25, 2017. I was then on vacation from July 25, 2017 through August 20, 2017. Thus, I did not receive any notice of the examination while I was on duty.” In support of his appeal, Mr. Heger provides additional information, including: copies of Jersey City Police Department attendance sheets from July 8, 2017 through July 25, 2017 showing that Mr. Heger was on leave; a copy of a Jersey City Police Department Investigation Report dated July 8, 2017 regarding a motor vehicle accident involving Mr. Heger; a letter dated October 16, 2017 from Captain Peter Lagis, Investigations Executive Officer, in which Captain Lagis “verff[ies] that on July 8, 2017 Detective Christopher Heger was injured On Duty (Motor Vehicle Accident) while in the performance of his duties. Due to the injuries he sustained during the accident, he was on Injury leave from July 8, 2017 through July 25, 2017 . . .” Mr. Jensen indicates that he “was on vacation out of state from July 12, 2017 through August 6, 2017. Thus, I did not receive any notice of the examination while I was on duty. I am unable to receive work-related emails on my phone, therefore there was no way I could have seen the email.” In support of his appeal, Mr. Jensen provides additional information, including: copies of Jersey City Police Department attendance sheets from July 14, 2017 through August 7, 2017 showing that Mr. Jensen was on leave; a letter dated October 16, 2017 from Lieutenant Mark Conroy, Major Case Commander, in which Lieutenant Conroy verifies that “Detective Jensen began his summer vacation July 14 and returned to work full duty on August 7, 2017;” and a copy of E-Z Pass use from July 14 through August 11, 2017.

CONCLUSION

N.J.A.C. 4A:4-2.1(b) provides:

In order to notify all employees of promotional opportunities, promotional examination announcements shall be posted on, and applications shall be made available through, the Civil Service Commission web site and may also be made available through the web sites of affected appointing authorities. If an affected appointing authority does not maintain or utilize a web site, promotional examination announcements shall be conspicuously posted by the affected appointing authority at all geographic locations within the unit scope (in State service) or department (in local service) to which the examination is open. Appointing authorities shall also ensure the notification by electronic or other means of all eligibles of the promotional examination announcement. Appointing authorities shall maintain a record of promotional examination announcement postings and the notification of eligibles of the announcement.

N.J.A.C. 4A:4-2.1(e) provides, in part, that applications for promotional examinations shall be filed no later than 4:00 p.m. on the announced filing date.¹

It is noted that the appointing authority was contacted regarding this matter and declined to submit a response.

In the present matter, the appointing authority does not dispute that the only means of notifying candidates of the subject test was by an email sent on July 14, 2017. Furthermore, there is no evidence in the record that the appointing authority attempted to contact Messrs. Heger and Jensen while they were on leave to ensure that they were aware of the subject announcement. *See In the Matter of John Unger* (MSB, decided January 17, 2007) and *In the Matter of Mark Prior* (CSC, decided July 11, 2012). In this regard, both Messrs. Heger and Jensen were on leave on July 14 through the remainder of the application filing period. Specifically, Mr. Heger was on injury leave from July 8, 2017 through July 25, 2017, as verified by his commanding officer, and Mr. Jensen was on vacation leave from July 14, 2017 through August 7, 2017, as verified by his commanding officer.

Accordingly, based on equitable grounds, it is appropriate to relax the provisions of *N.J.A.C.* 4A:4-2.1(e) and permit Messrs. Heger and Jensen to file applications.

ORDER

Therefore, it is ordered that this appeal be granted, the appellants' applications be accepted and upon determination of eligibility, the appellants be admitted to the subject examination.

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 1ST DAY OF NOVEMBER, 2017



Robert M. Czedz, Chairperson
Civil Service Commission

¹ It is noted that effective July 17, 2017, *N.J.A.C.* 4A:4-2.1(e) was amended to substitute the former deadline of "11:59 p.m." to "4:00 p.m."

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