



STATE OF NEW JERSEY

In the Matter of Maintenance
Superintendent (M0841U), City of
Asbury Park

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2017-3878

Appointment Waiver

CORRECTED DECISION

ISSUED: January 24, 2018 (AMR)

The City of Asbury Park requests permission not to make an appointment from the March 20, 2017 certification for Maintenance Superintendent (M0841U).

The record reveals that the City of Asbury Park provisionally appointed William McClave, pending open competitive examination procedures to the subject title, effective January 4, 2016. An examination was announced with a closing date of November 15, 2016 that resulted in a list of 3 eligibles with an expiration date of March 15, 2020. It is noted that McClave is no longer serving as a Maintenance Superintendent and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained due to economy and efficiency, the city no longer needs to maintain a position in that title.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of William McClave, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the Maintenance Superintendent title was no longer warranted due to economy and efficiency. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

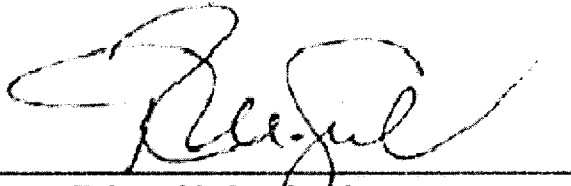
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needs to maintain the position of Maintenance Superintendent after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process. However, the record indicates that the appointing authority has already submitted the required \$2,048 for the cost of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted.

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 15th DAY OF NOVEMBER, 2017



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