



**STATE OF NEW JERSEY**

In the Matter of June Gazek-Harris,  
Environmental Specialist 4  
(PS3969G), Department of  
Environmental Protection

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

CSC Docket No. 2018-723

List Removal Appeal

**ISSUED: APRIL 2, 2018 (SLK)**

June Gazek-Harris appeals her removal from the eligible list for Environmental Specialist 4 (PS3969G), Department of Environmental Protection for failing to respond to the certification notice.

By way of background, on July 14, 2017, a notice was sent to the appellant indicating that her name had been certified to the Department of Environmental Protection from the Environmental Specialist 4 (PS3969G) list on certification PS171142. However, the appellant failed to respond to the certification notice.

On appeal, the appellant submits a notarized sworn statement indicating that she never received the subject notice of certification. The appellant asserts that she should not be penalized for a situation that she had no control over and therefore requests that her name be retroactively placed on the subject certification so that she can compete for a current opportunity.

Although given the opportunity, the appointing authority did not respond to the appellant's appeal.

**CONCLUSION**

*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

the appointing authority's decision to remove the appellant's name from the eligible list was in error. *N.J.A.C.* 4A:4-4.7(a)6 provides that the name of an eligible may be removed from an eligible list for non-compliance with the instructions listed on the notice of certification.

In the instant matter, the appellant submitted a notarized sworn statement, attesting to the fact that she did not receive the subject notice of certification. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her notarized statement in this matter. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Therefore, under these circumstances, the appellant's name should be restored to the subject eligible list.

With respect to appellant's request for retroactive placement on the subject certification for current opportunities, this agency's records indicate that the appellant's address on appeal is the same as the address this agency used to mail the subject notice of certification to the appellant. Further, there is no evidence that this agency committed an error in this matter and the Civil Service Commission cannot be held responsible for issues regarding the delivery and receipt of mail. Moreover, even if the appellant's name had not been removed from the subject certification, she would not have been reachable for appointment on PS171142 as the first ranked eligible was the only appointment on the subject certification and the appellant was tied with another eligible as the 13<sup>th</sup> ranked eligible. Consequently, there are no grounds to retroactively place the appellant's name on the subject certification.

### ORDER

Therefore, it is ordered that this appeal be granted in part and the appellant's name be restored to the Environmental Specialist 4 (PS3969G), Department of Environmental Protection list for prospective employment opportunities only.

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 27<sup>th</sup> DAY OF MARCH, 2018



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