STATE OF NEW JERSEY

	:	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
In the Matter of Eric Koob and Anthony Santoro, Fire Fighter, Ventnor	:	
	:	Administrative Appeal
CSC Docket Nos. 2018-1563 2018-1565	:	

ISSUED: April 2, 2018 (RE)

In accordance with *In the Matter of Eric Koob and Anthony Santoro* (Chairperson, decided December 22, 2017), the intergovernmental transfers of Eric Koob and Anthony Santoro, in the title of Fire Fighter, Atlantic City, to the title of Fire Fighter, Ventnor are submitted to the Civil Service Commission (Commission) for review and ratification.

The background of this matter and the details are extensively discussed in *Koob and Santoro* (attached). As the requested transfers needed to be effected in between meetings of the Commission, in accordance with the statutory, regulatory, and inherent authority to take necessary action to implement the public policy set forth by the Legislature in Title 11A and the nature of the request, the Chairperson found it appropriate to permit the transfers of Koob and Santoro in the title of Fire Fighter, Atlantic City to the title of Fire Fighter, Ventnor. In accordance with *N.J.A.C.* 4A:1-4.3(f), the Chairperson indicated that when the Commission convenes, this matter would be presented for its review and ratification.

CONCLUSION

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

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject

to the approval of the transferring agency, the receiving agency, the transferring employee, and Agency Services. Absent rule relaxation procedures, transfers in this case cannot be processed since the transfers involve employees who are serving in a jurisdiction where the provisions of Title 11A and Title 4A do not apply.

N.J.A.C. 4A:4-7.1A(a) states that an intergovernmental transfer is the movement of a *permanent* employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A. However, as noted above, Koob and Santoro are not currently permanent employees in a governmental jurisdiction operating under Title 11A.

For the reasons set forth in *Koob and Santoro, supra,* after a full review and consideration of the record, the Commission ratifies and approves the intergovernmental transfers of Eric Koob and Anthony Santoro, in the title of Fire Fighter, Atlantic City, to the title of Fire Fighter, Ventnor.

ORDER

Therefore, it is ordered that this request, seeking the transfers of Eric Koob and Anthony Santoro in the title of Fire Fighter, Atlantic City to the title of Fire Fighter, Ventnor, be granted.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 27TH DAY OF MARCH, 2018

Deirdre L. Webster Cobb
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Eric Koob (CSC Docket No. 2018-1563)
Anthony Santoro (CSC Docket No. 2018-1565)
Lisa Hand
Jason Holt
Timothy Cunningham
Kelly Glenn
Records Center

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CHAIRPERSON OF THE CIVIL SERVICE COMMISSION

In the Matter of Eric Koob and Anthony Santoro, Fire Fighter, Ventnor

Request for Interim Relief

CSC Docket Nos. 2018-1563
2018-1565

ISSUED: December 27, 2017 (RE)

Ventnor City (Ventnor) petitions the Chairman/Chief Executive Officer (Chair/CEO) of the Civil Service Commission (Commission) to relax the provisions of *N.J.A.C.* 4A:4-7.1A(a) in order to permit the permanent transfers of Eric Koob and Anthony Santoro, in the title of Fire Fighter, Atlantic City to the title of Fire Fighter, Ventnor.

By way of background, Koob and Santoro were appointed as Fire Fighters with Atlantic City on January 7, 2013, and May 13, 2013, respectively. At the time of their appointments, Atlantic City was subject to the provisions of Title 11A, New Jersey Statutes. Accordingly, their merit and fitness for the positions was ascertained through the competitive testing process and completion of working test periods in compliance with Civil Service law and rule. Effective November 9, 2016, in accordance with *N.J.S.A.* 52:27BBBB-1 *et. seq.,* the Municipal Stabilization and Recovery Act (MRSA), Atlantic City was deemed a municipality in need of stabilization and recovery and the Director, Division of Local Government Services, New Jersey Department of Community Affairs, assumed all of the functions, powers, privileges and immunities of the governing body of Atlantic City. Thereafter, the Division of Local Government Services and this agency entered into a Memorandum of Understanding where the parties agreed that the Director, Division of Local Government Services and/or his designee shall exercise authority and discretion granted in the MRSA with respect to the provisions of Title 11A, and the regulations promulgated thereunder, and that the provisions of Title 11A, and the regulations promulgated thereunder, shall not apply. Therefore, while it is deemed a municipality in need of stabilization and recovery in accordance with MSRA, the

provisions of Title 11A and the regulations promulgated thereunder do not apply to Atlantic City.

Subsequently, Koob and Santoro sought intergovernmental transfers to Ventnor. However, as noted above, Atlantic City currently does not operate under the provisions of Title 11A and Title 4A. As such, the Koob and Santoro do not have permanent civil service status. The provisions of *N.J.A.C.* 4A:-7.1A(a) are only available to permanent career service employees working in State, county or municipal Civil Service jurisdiction.

In the present matter, in its November 21, 2017 request, Ventnor states that it has a critical need for additional, trained Fire Fighters. It explains that due to recent retirements, the Fire Department is understaffed and has an immediate need to cover shift and staffing requirements with fully trained and qualified personnel. In this regard, Ventnor notes that the city is a tourist destination and it is currently preparing for its peak visitor season. Therefore, Ventnor underscores that it is essential to public safety that the intergovernmental transfers be processed immediately. As Koob and Santoro have the requisite knowledge, skills, abilities and training and were selected and appointed by Atlantic City in accordance with the provisions of Title 11A, Ventnor requests that the provisions of *N.J.A.C.* 4A:-7.1A(a) be relaxed in order to permit their intergovernmental transfers effective December 26, 2017.

It is noted that all of the affected parties in this matter have been apprised of this request. *See N.J.A.C.* 4A:2-1.2(e). By e-mail dated December 1, 2017 to the Division of Agency Services (Agency Services), which was copied to the Business Administrator, Atlantic City, the Director, Division of Local Government Services provided authorization for the intergovernmental transfers of Koob and Santoro from Atlantic City to Ventnor.

CONCLUSION

N.J.A.C. 4A:1-3.2(b)3 provides, in part, that the Chairperson, on behalf of the Commission shall, between meetings of the Commission, provide for interim remedies or relief in a pending appeal where warranted.

The following factors are provided by *N.J.A.C.* 4A:2-1.2(c) in evaluating petitions for stays or interim relief:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm;
3. Absence of substantial injury to the other parties; and
4. The public interest.

In order to ensure the continued flow of crucial public service personnel functions, the Commission has delegated to the Chairperson a number of responsibilities associated with the various administrative personnel functions

associated with the appointment process. *See N.J.A.C.* 4A:1-3.2. For example, *N.J.A.C.* 4A:1-3.2(b)6 specifically requires the Chairperson to approve appointments in the State and local service and *N.J.A.C.* 4A:1-3.2(b)3 permits the Chairperson to provide for interim remedies between meetings of the Commission in a pending appeal where warranted. These regulatory criteria clearly established that the Chairperson has the day-to-day authority as well as the responsibility to ensure both State and local appointing authorities are provided with the appropriate appointment, supervisory and other personnel authority needed to execute properly their constitutional and statutory responsibilities

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

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and Agency Services. Absent rule relaxation procedures, transfers in this case cannot be processed since the transfers involve employees who are serving in a jurisdiction where the provisions of Title 11A and Title 4A do not apply.

N.J.A.C. 4A:4-7.1A(a) states that an intergovernmental transfer is the movement of a *permanent* employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A. However, as noted above, Koob and Santoro are not currently permanent employees in a governmental jurisdiction operating under Title 11A.

In the instant matter, it is appropriate for the Chairperson to permit the intergovernmental transfers of Koob and Santoro from Atlantic City to Ventnor in the title of Fire Fighter. But for the fact that Atlantic City is currently deemed a municipality in need of stabilization and recovery in accordance with MSRA and the provisions of Title 11A and Title 4A do not apply, Koob and Santoro satisfy the criteria for participation in the intergovernmental transfer program. In this regard, the record demonstrates that they were permanently appointed as Fire Fighters in Atlantic City in accordance with Civil Service law and rules and completed their working test periods. Further, all of the parties, including the Director, Division of Local Government Services, have agreed to the terms of the intergovernmental transfer. Additionally, the former Commissioner of Personnel and the Commission have previously permitted employees of non-Civil Service jurisdictions to participate in the intergovernmental transfer program under particular circumstances. *See In the Matter of Police Officers to Sheriff's Officers, Gloucester County Sheriff's Office* (CSC, decided May 27, 2009) (Commission permitted the intergovernmental transfers of four permanent non-Civil Service Police Officers to career service Sheriff's Officer

titles with the Gloucester County Sheriff's Office due to their layoffs as a result of consolidation of services); *In the Matter of Dennis Gaspari* (Commissioner of Personnel, decided September 13, 2002) (Although Somerset County Board of Social Services is not a Civil Service jurisdiction, as federal regulations require that its operations be merit-based, Commissioner permitted employee to participate in the intergovernmental transfer program); and *In the Matter of Ronald P. Laielli, et al., Fire Fighter, Ventnor* (Chairperson , decided July 31, 2017). As such, it is likely the commission will relax the provisions of *N.J.A.C.* 4A:4-7.1A(a) and permit the transfers.

Moreover, Ventnor has indicated that there is a public safety need for the immediate appointment of trained Fire Fighters, as it is currently understaffed and it is preparing for the tourist season. There is nothing in the record to indicate that any other party would be harmed by permitted the transfers and the public interest is served by ensuring sufficient staffing levels of critical public safety positions. Therefore, it is appropriate to permit the intergovernmental transfers of Koob and Santoro from the title of Fire Fighter, Atlantic City to Fire Fighter, Ventnor, effective December 26, 2017. When the Commission convenes, the matter will be presented for review and ratification.

ORDER

Therefore, on behalf of the Civil Service Commission, it is ordered that this request, seeking the transfers of Eric Koob and Anthony Santoro in the title of Fire Fighter, Atlantic City to the title of Fire Fighter, Ventnor, be granted.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 22nd DAY OF December 2017

RMCzech

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Eric Koob (CSC Docket No. 2018-1563)
Anthony Santoro (CSC Docket No. 2018-1565)
Lisa Hand
Jason Holt
Timothy Cunningham
Kelly Glenn
Records Center