



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kevin Bischoff, Fire
Fighter (M2568M), Borough of
Roselle

CSC Docket No. 2015-2871

List Removal

ISSUED: **NOV 10 2015** (LDH)

Kevin Bischoff appeals the decision of the Borough of Roselle which removed the appellant's name from the Fire Fighter (M2568M), Borough of Roselle eligible list on the basis that he refused to submit a urine sample during pre-employment processing.

The appellant's name appeared on the eligible list for Fire Fighter (M2568M), Borough of Roselle, which was certified to the appointing authority on November 17, 2014. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to a failed urinalysis examination. In support, the appointing authority submits a letter from Practice Administrator Melissa Muniz from MDCare. In the letter, Muniz stated that the appellant was not able to produce enough urine for the examination and the specimen he was able to provide had absolutely no temperature and therefore the sample was invalid. Muniz contends that the appellant was told that he could not leave the facility until he gave another sample or his examination would be an automatic fail. However, Muniz indicates that the appellant left the facility and returned an hour later asking to repeat the drug screen, which the facility did not allow per protocol.

On appeal to the Civil Service Commission (Commission), the appellant explains the circumstances surrounding the urinalysis examination. The appellant states that after he took the urine screen the nurse poured his urine into two different cups but one of the cups was not filled to the line. The appellant states

that the nurse then told him that he would have to take the urine screen again. However, the appellant explains he could not do so at that time because he just went to the bathroom. The appellant states that the nurse then told him he had to reschedule which he did. The appellant asserts that when he returned, a different nurse told him that he wasn't allowed to leave and he would be given an automatic fail. Lastly, the appellant maintains that he has been a volunteer firefighter for over 10 years and doesn't want to lose his chance to become a full-time fire fighter because of a miscommunication problem.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)3, states that an eligible who is physically unfit to effectively perform the duties of the position may be removed from the eligible list. *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, also states that an eligible may be removed from an eligible list for other sufficient reasons as determined by the Civil Service Commission.

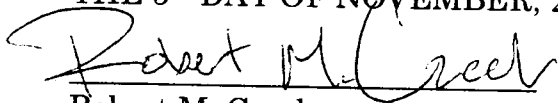
In the instant matter, the appellant was properly removed from the eligible list for his refusal to submit to a urinalysis examination during his pre-employment processing. When the appellant left the facility without submitting a valid sample, he effectively refused to submit a urine sample. Though there may have been a miscommunication at the facility, it was the responsibility of the appellant to ensure that his actions were in accordance with the guidelines of the facility. Accordingly, the appellant was appropriately removed from the Fire Fighter (M2568M), Borough of Roselle eligible list due to his refusal to submit to a drug test.

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 5th DAY OF NOVEMBER, 2015



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