

B-24



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kenneth Connelly,
Human Services Specialist 4,
(PC1388R), Union County

List Removal

CSC Docket No. 2015-1811

ISSUED: APR - 6 2015 (LDH)

Kenneth Connelly appeals the attached decision of the Division of Classification and Personnel Management (CPM), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Human Services Specialist 4, (PC1388R), Union County, eligible list due to his failure to respond to the certification notice.

The appellant's name appeared on the eligible list for Human Services Specialist 4, (PC1388R), which promulgated on April 3, 2014 and expires on April 2, 2016. The appellant's name was certified to the appointing authority on April 3, 2014. Certification Notices ("Notice") dated April 10, 2014, were sent to the eligibles with instructions to notify the appointing authority in writing, within five business days as to whether or not the individual was interested in the position. The Notice also states that failure to follow the instructions will result in the removal of the eligible's name from the list. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to his failure to respond to the Notice. The appellant appealed to CPM, which subsequently denied his appeal. Agency records indicate that the appointing authority appointed three eligibles from the subject eligible list and that the appellant was not reachable for appointment.

On appeal to the Civil Service Commission (Commission), the appellant argues that he never received the Notice. He contends that his neighborhood has been experiencing difficulty receiving regular mail. In support, he submits a sworn

notarized statement under oath stating that he did not receive the Notice and an affidavit from his neighbor, Americo Crincoli, attesting to mail delivery problems.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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 an appointing authority's decision to remove the appellant from an eligible list was in error.

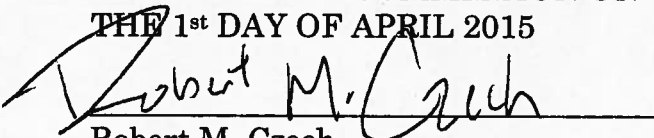
In the instant matter, the appellant's name was removed from the eligible list due to his failure to contact the appointing authority after receipt of the Notice. However, the appellant maintains that he never received the Notice instructing him to contact the appointing authority. Furthermore, the appellant submits a sworn notarized statement under oath stating that he did not receive the Notice. *See In the Matter of Salena Bradley* (CSC, decided July 16, 2014) (Commission restored appellant's name to the Correction Officer Recruit (S9988R) eligible list as she submitted a sworn notarized statement that she had not received the e-mail from the Department of Corrections notifying her of the date she was to appear for pre-employment processing). Accordingly, under these circumstances, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the Human Services Specialist 4, (PC1388R), Union County, eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for prospective employment opportunities.

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 APRIL 2015


Robert M. Czech
Chairperson
Civil Service Commission

**Inquiries
and
Correspondence**

**Henry Maurer
Director
Division of Appeals and
Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
Trenton, NJ 08625-0312**

Attachment

- c. **Kenneth Connelly
Charles J. Gillon
Kenneth Connolly, Director of Agency Services
Joseph Gambino**



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

DATE: December 1, 2014

Kenneth Connelly

Title: Human Services Specialist 4
Symbol: PC1388R
Jurisdiction: Union of County
Certification Number: PL140363
Certification Date: 04/03/14

Initial Determination: Removal – Non-response to certification

This is in response to your correspondence contesting the removal of your name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with *N.J.A.C. 4A:4-4.7(a)6*, which permits the removal of an eligible candidate's name from the eligible list for non-compliance with the instructions listed on the Notice of Certification.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name is sustained and your appeal is **denied**.

In accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

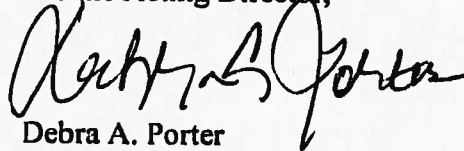
Pursuant to P.L. 2010 c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC.

Kenneth Connelly
December 1, 2014
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Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Acting Director,



Debra A. Porter
Senior Management Assistant

c: Norman W. Albert