



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Administrative
Clerk (M0802S), Clark

CSC Docket No. 2016-1645

Appointment Waiver Request

ISSUED: **NOV 15 2016** (SLD)

Clark Public Library (Library) requests permission not to make an appointment from the July 13, 2015 certification for Administrative Clerk (M0802S), Clark.

The record reveals that the appointing authority provisionally appointed Charlene Hayden part-time, pending open-competitive examination procedures to the title of Administrative Clerk, effective February 18, 2014. As a result of the provisional appointment, an examination was announced with a closing date of December 4, 2014. Thirty-eight applicants, including Hayden were admitted to the written examination which was held on June 18, 2015. The resulting eligible list of 23 names, including Hayden as the fifth ranked eligible, promulgated on July 9, 2015 and expires on July 8, 2018. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On July 13, 2015, the names of five eligibles were certified from the subject eligible list. The appointing authority initially returned the certification requesting the removal of three of the eligibles for not meeting the requirements of the position and one for failing to complete preemployment processing. The appointing authority also indicated that Hayden was to be appointed, effective August 4, 2015. The Division of Agency Services (DAS) notified the appointing authority that it could not remove the eligibles for not meeting the requirements, since all three had met the announced requirements for the position. Thereafter, the appointing authority returned the certification, indicating that no appointments would be made and requested an appointment waiver.

In its request for an appointment waiver, the appointing authority asserted that historically, the position at issue had been filled by an individual in the title of Account Clerk. However, the previous administration changed the title of the position to Administrative Clerk. The appointing authority maintains that upon the new administration taking control, it merely "kept" the same titles for the positions. It was only after the list was certified that it realized that the title of Administrative Clerk was not the correct title for the position. In this regard, it noted that none of the eligibles, except for Hayden, had any knowledge of modern office methods, such as Excel and cloud-based accounting software; experience with reporting to a Board of Trustees; and human resource administration experience. Additionally, the appointing authority asserted that it does not have the ability to pay any fines as it would be forced to cut programming and reduce its materials budget to pay for any fine.

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. In response, the appointing authority reiterates that it merely appointed Hayden to the title that the previous administration had utilized for the position, and did not realize that the title was not appropriate for the financial records management duties performed by an incumbent in the position. Additionally, it maintains that if it is required to pay costs in the amount of \$2,048, it will be unable to hire a part-time children's librarian this year.

Agency records reveal that Hayden was appointed to the non-competitive title of Account Clerk, on a part-time hourly basis, effective January 7, 2016. Agency records further reveal that there are no employees serving in the subject title with the appointing authority. However, there is currently one individual serving permanently in the title of Administrative Clerk with the Township of Clark.

A review of the job specification for Administrative Clerk reveals that an individual in that title assists an administrative official of a department or autonomous government agency at a level no lower than department head, by doing administrative clerical and related work, usually varied and involving some elements of trouble shooting; or, under the immediate direction of an administrative official at a level no lower than department head, supervises the office and other clerical and related operations of a department or autonomous agency. The requirement for the title of Administrative Clerk is five years of experience in clerical work. The successful completion of a two-year college level course in secretarial science may be substituted for two years of the indicated experience.

A review of the job specification for Account Clerk reveals that an individual in that title performs a variety of routine, repetitive, noncomplex clerical tasks

which involve computing, classifying, verifying, and recording numerical data and the reconciliation of accounts, records, and documents to keep sets of financial records complete.

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 for a list 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 title of Administrative Clerk was generated as a result of the provisional appointment of Hayden. After a complete certification was issued, the appointing authority appointed Hayden to the non-competitive title of Account Clerk. A review of the relevant job specifications indicates that an individual in the title of Account Clerk performs different duties than an individual in the title of Administrative Clerk. Moreover, agency records reveal that there are no employees serving in the subject title with the appointing authority. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, 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 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, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, the appointing authority simply stated that Hayden was no longer serving in the subject title and that due to fiscal constraints it was unable to pay for the costs of the examination process. However, the Civil Service Commission notes that the list in question will not expire until July 8, 2018. Further, the record reveals that although there is currently no one serving in the subject title with the Clark Public Library, the title is utilized by the Township of Clark. Moreover, the subject eligible list is available for use by the Township of Clark. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process *at this time*. See e.g., *In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided March 22, 2006) (Not appropriate to assess the Department of Corrections for the costs of the selection process since it had

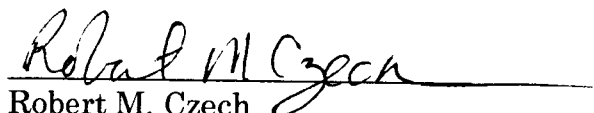
indicated its intention to utilize the eligible list prior to its expiration date). Nevertheless, in the event that this appointing authority, or the Township of Clark, fails to utilize the list by its expiration date of July 8, 2018, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made. See e.g., *In the Matter of Supervising Administrative Analyst (PS1837I), Department of Corrections* (MSB, decided April 11, 2007) (Costs assessed upon the expiration of the eligible list since the Department of Corrections failed to utilize the eligible list and there was no evidence that it had even attempted to utilize the eligible list).

ORDER

Therefore, it is ordered that the appointment waiver be granted and no selection costs presently be assessed.

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 10TH DAY OF NOVEMBER, 2016


Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Dawn S. Jenkin
Kelly Glenn
Records Center
Diane Lukasewycz