



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Community
Relations Specialist (M0082S), City of
East Orange

CSC Docket Nos. 2016-~~1392~~¹³²² and
2016-~~3207~~³⁰²⁷

Appointment Waiver

ISSUED: **NOV 10 2016** (WR)

The City of East Orange (East Orange) requests permission not to make an appointment from the November 18, 2014 certification for Community Relations Specialist (M0082S).

The record reveals that Charles Grimes was provisionally promoted, pending open competitive examination procedures, to the subject title with the East Orange Fire Department, effective December 2, 2013. As a result of this provisional appointment, an examination was announced with a closing date of February 6, 2014. Grimes did not apply for the examination. The examination resulted in an eligible list of 11 individuals, which promulgated on January 8, 2015 and expires on January 7, 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. A certification, OL141515, for the Fire Department was issued on November 18, 2014. A certification, OL150518, for all East Orange jurisdictions was issued on April 24, 2015.¹ On February 2, 2016, the appointing authority returned both certifications and requested an appointment waiver for both certifications.

In its requests for the appointment waivers, the appointing authority asserts that Grimes is no longer serving in the subject title. It also requests that the costs of the selection process be waived due to budgetary constraints.

¹ It is unclear why this certification was issued.

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. No further arguments were received. It is noted that on March 1, 2016, the appointing authority remitted payment in the amount of \$2048 for the costs associated with the selection process.

Agency records indicate that there are currently no individuals in the subject title with the appointing authority. Agency records also indicate that on February 27, 2015, Grimes was appointed to Fire Prevention Specialist provisionally pending open-competitive examination procedures. Grimes was separated from this position on November 1, 2015 and appointed to Records Support Technician 1, a non-competitive position, effective November 3, 2015.

A review of the job specification for Community Relations Specialist reveals that an individual in that title assists in the organization and development of a community relations program to advance community harmony, and performs field work to carry out the objectives. A review of the job specification for Records Support Technician 1 reveals that an individual in that title performs varied clerical work involving the processing and filing of records.

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 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 subject title was generated as the result of the provisional appointment of Grimes. Two certifications were subsequently issued, one, OL141515, for the Fire Department, and a second, OL150518, for all East Orange jurisdictions. As noted above, it is unclear why the second certification was issued. Nevertheless, the appointing authority thereafter requested an appointment waiver due to budgetary constraints. Agency records indicate that Grimes ceased serving in the subject position, effective February 27, 2015. A review of the relevant job specifications indicates that an individual in the title of Community Relations Specialist performs sufficiently different duties than an individual in the title of Records Support Technician 1. Moreover, there are no employees serving provisionally in the subject title with the appointing authority. Therefore, there is sufficient justification for an appointment waiver.

Although the appointing authority's petition for a 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

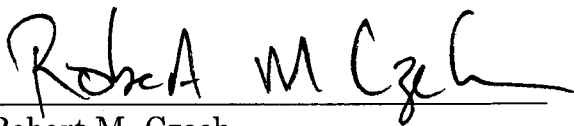
receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, 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, although the appointing authority has shown a valid reason for not making an appointment from the subject eligible list, it has failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. Moreover, the appointing authority submitted a check in the amount of \$2,048 for the costs of the selection process. Therefore, since the appointing authority has conceded that it is responsible for those costs, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the request for the waiver of appointment requirement be granted. Additionally, the Civil Service Commission orders that the City of East Orange be assessed for the costs of the selection process in the amount of \$2,048, but notes that the costs have already been remitted.

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



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