



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Secretarial Assistant
(M0599S), City of East Orange

CSC Docket No. 2016-2207

Appointment Waiver

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

City of East Orange requests permission not to make an appointment from the January 12, 2015 certification for Secretarial Assistant (M0599S).

The record reveals that the appointing authority provisionally appointed Donyale Harris and Eliza Cival, pending open-competitive examination procedures to the title of Secretarial Assistant, effective August 12, 2013 and February 3, 2014, respectively. As a result of the provisional appointments, an examination was announced with a closing date of July 28, 2014. Harris and Cival applied for the examination but were deemed ineligible. The resulting eligible list of 16 names promulgated on December 25, 2014 and expires on December 24, 2017. 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 January 12, 2015, the names of 16 eligibles, were certified from the subject eligible list.

The appointing authority returned the certification and requested an appointment waiver due to budgetary constraints as it opted not to utilize the subject title within the Department of Property Maintenance. The appointing authority also noted that the "provisional" was displaced from the position and that it would assume the administrative costs for the selection process. The appointing authority's request for an appointment waiver was acknowledged, and it was

advised that if its request was granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received.

Agency records reveal that Harris was separated from employment, effective July 29, 2015. Agency records reveal that Cival was appointed to the non-competitive title of Records Support Technician 1, effective September 20, 2015. Personnel records further reveal that no employees are serving in the subject title with the appointing authority.

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. A review of the job specification for Secretarial Assistant indicates that the incumbent acts as a personal secretary or aide to the head of an established division and performs complex and responsible clerical work of a varied nature requiring thorough knowledge of the rules and regulations of the division.

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 subject examination was generated as a result of the provisional appointments of Harris and Cival. After a complete certification was issued, the record reveals that Harris was no longer employed with the appointing authority and Cival was appointed to the non-competitive title of Records Support Technician 1. A review of the job specification reveals that the non-competitive title of Records Support Technician 1 performs significantly different duties than an individual in the title of Secretarial Assistant. 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

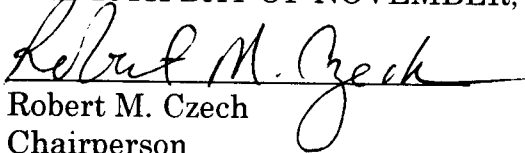
instant situation, the appointing authority has agreed to assume the administrative costs for the examination. Thus, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

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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