



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Alexandria DiNoia,  
Division of State Police

Request for Reconsideration

CSC Docket No. 2017-1918

ISSUED: OCT 23 2017 (SLD)

Alexandria DeNoia, an Investigator 4, Law and Public Safety, with the Division of State Police, Department of Law and Public Safety, petitions for reconsideration of the attached final decision rendered on October 19, 2016, which denied a request for a waiver of repayment of a salary overpayment.

The history of this matter is indicated in the attached decision. *See In the Matter of Alexandria DeNoia* (CSC, decided October 19, 2016). In that decision, the Civil Service Commission (Commission) did not find a sufficient basis to grant a waiver of the overpayment amount (\$4,274.20) pursuant to *N.J.A.C. 4A:3-4.21*. In this regard, the Commission noted that the overpayment was the result of the delay in processing of the change to her title and not due to a specific delay. Moreover, the Commission noted that although the appointing authority and the petitioner claimed that the repayment of the amount would create a hardship, they failed to present any specific evidence, such as her monthly income and expenses, to substantiate a claim of hardship. *See In the Matter of Yvette Waugh, et al.* (Commissioner of Personnel, decided October 25, 1996) (Lack of documentation in support of claimed economic hardships did not warrant waiver of salary overpayment for employees erroneously awarded salary at the fourth step of the salary range). Additionally, the Commission noted that although the repayment amount in the matter was \$4,764.10, DeNoia had already received \$4,274.20 for differential pay, leaving only a difference of \$489.90. The appointing authority also indicated that she had already been compensated for the additional hours she worked with compensatory time. Further, since the appointing authority failed to set a repayment schedule, it could not be demonstrated that the amount the

petitioner would be required to pay per bi-weekly pay period would create a hardship to her.

In her request for reconsideration, the petitioner maintains that the Commission erred in denying her request to waive all of the repayment of the salary overpayment. Initially, the petitioner argues that since the salary overpayment was not her fault, she should not be responsible for repaying it. Additionally, the petitioner claims that the Commission made several "blatant" errors, and "insinuations" that she takes exception to. Specifically, she maintains that the Commission's statement that she cashed the check for the differential salary and then appealed to the Commission concerning the salary overpayment was inappropriate since she was on Military Orders when she was made aware of the overpayment and she had correctly cashed the check and paid her bills prior to departing. Moreover, the petitioner asserts that despite the Commission's statement to the contrary, she was not credited with the compensatory time until October 26, 2016. The petitioner also disputes that there was no specific administrative error that caused the salary overpayment. Specifically, she asserts that the specific administrative error that occurred was "the union and payroll's misinformation being relayed to [her] immediate supervisors" and that "those same individuals allowed for and approved the extended hours." Furthermore, she argues that she should have been made aware of the reclassification "fine print" as it was unreasonable that she would have thought she could be responsible for a repayment based upon a reclassification.

With regard to her failure to address the factors for economic hardship, the petitioner acknowledges that she did not provide any specific information concerning her economic situation. However, she maintains that she was never contacted to do so after filing her initial appeal. The petitioner maintains that after the Commission's prior decision, she was given a repayment schedule of \$300 per pay period, which is clearly unreasonable and notes it is more than her car payment. The petitioner asserts that she lives paycheck to paycheck and is the sole provider for rent and cost of living. She also asserts that the increases in deductions each year are getting harder to bear.

## CONCLUSION

*N.J.A.C. 4A:2-1.6(b)* sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

In its prior decision, the Commission determined that the petitioner failed to demonstrate that the salary overpayment at issue resulted from a specific

administrative error, or that repayment would result in economic hardship if a reasonable repayment schedule was established. In this regard, the overpayment resulted from the reclassification of the petitioner's position. In the instant matter, the petitioner has failed to provide any evidence that the Commission's decision was contrary to the evidence presented. Instead, she merely alleges that there was a "specific administrative error." However, the overpayment was the result of her reclassification and not any error.

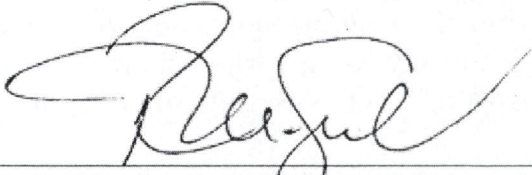
With regard to the petitioner's claim that she was never contacted prior to the issuance of the Commission's decision and/or requested to provide information regarding any economic hardship, the Commission notes that a letter was mailed to the petitioner's address of record on July 23, 2015, which listed the factors that were to be addressed in this matter, including that the terms of the repayment schedule would result in an economic hardship. Furthermore, the petitioner still has not presented any specifics to establish that the repayment would cause an economic hardship. As the petitioner has not demonstrated a clear material error in the prior decision or present any specifics to establish repayment would cause an economic hardship, she has not met the standard for reconsideration. With regard to the petitioner's other allegations concerning inappropriate statements and/or misrepresentations in the Commission's prior decision, it is noted that the petitioner does not dispute that she received the differential check or that she cashed it. Rather, she objects to the "insinuation" that her actions were inappropriate. However, the Commission merely noted that the petitioner received a check for the differential amount of salary she was entitled to as a result of the reclassification. Moreover, as this check was for almost the full amount of the overpayment amount, it negated the petitioner's statement that the repayment would have caused her an economic hardship. Accordingly, the petitioner has failed to present a sufficient basis for reconsideration of the Commission's prior decision.

### **ORDER**

Therefore, it is ordered that this request for reconsideration 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 18TH DAY OF OCTOBER, 2017



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Robert M. Czech, Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment

c: Alexandria DiNoia  
Jessica Chianese  
Kelly Glenn  
Records Center



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Alexandria DiNoia,  
Division of State Police

CSC Docket No. 2016-611

Request for Waiver of Repayment  
of Salary Overpayment

ISSUED: OCT 25 2016 (SLD)

Alexandria DeNoia, an Investigator 4, Law and Public Safety, with the Division of State Police, Department of Law and Public Safety, requests a waiver of repayment of salary overpayment, pursuant to *N.J.S.A.* 11A:3-7, which provides that when an employee has erroneously received a salary overpayment, the Civil Service Commission (Commission) may waive repayment based on a review of the case.

By way of background, the appointing authority appointed the appellant to the title Clerk Typist 2, Evidence Handler (\$45,027.83, step 5, salary range A13). Subsequently, the appellant filed a request for a classification review. The appellant pursued the matter of her reclassification with the Division of Agency Services (Agency Services). Agency Services reviewed all documentation supplied and determined that the appropriate title for her position was Investigator 4, Law and Public Safety, effective April 19, 2014 (\$48,315.36, step 3, salary range P18).

The appellant was notified that as a result of the foregoing, her title and salary were corrected retroactive to April 19, 2014 and that as a result she was entitled to differential pay of \$4,274.20. However, she was further informed that since her prior title of Clerk Typist 2, Evidence Handler was a "35" title, but her current title was an "NE," she was no longer entitled to any overtime payments after April 18, 2014. In this regard, it noted that employees in "NE" (non-limited, non-exempt) titles are not normally eligible for cash compensation for overtime prior to working 40 hours. See *N.J.A.C.* 4A:3-5.3, 5.6 and 5.7. Therefore, she was

told to remit payment in the amount of \$4,764.10 to repay the amount of overtime she had received.

On appeal, the appellant argues that the “unfortunate consequence” of her “much deserved reclassification” will result in a financial hardship to her. Moreover, she maintains that the overpayment was not through any fault of her own. The appellant asserts that, since April 2014, she was unselfishly working extended hours to better serve the appointing authority and the “innocent victims” that it serves.

In response, the appointing authority notes that after the appellant’s workweek was retroactively changed from a “35” to a “NE” workweek, the overtime hours she worked from April 19, 2014 through June 12, 2015, were adjusted. Therefore, the \$4,764.10 she received in cash compensation for working between 35 and 40 hours per week was converted to compensatory time, and she was told to remit payment of the \$4,764.10. The appointing authority maintains that the Department of the Treasury, Centralized Payroll informed it that the differential pay that was owed to the appellant as a result of her reclassification was to be remitted to her. However, she was also required to repay the \$4,764.10 for overtime she was no longer entitled to. Finally, the appointing authority notes that the appellant was sent checks, totaling \$4,274.20, for the difference in salary between her prior title and her current title, which she cashed and then she made the instant request. As a result, no further action was taken, pending a determination of this matter.

## CONCLUSION

*N.J.A.C. 4A:3-4.21* Salary overpayments: State service, provides as follows:

- (a) The [Commission] may waive, in whole or in part, the repayment of an erroneous salary overpayment, or may adjust the repayment schedule based on consideration of the following factors:
1. The circumstances and amount of the overpayment were such that an employee could reasonably have been unaware of the error;
  2. The overpayment resulted from a specific administrative error, and was not due to mere delay in processing a change in pay status;
  3. The terms of the repayment schedule would result in economic hardship to the employee.

It is well settled that all of the factors outlined in *N.J.A.C. 4A:3-4.21* must be satisfied to successfully obtain a waiver of the repayment obligation. Thus, in *In the Matter of Thomas Micai v. Commissioner of Department of Personnel, State of New Jersey*, Docket No. A-5053-91T5 (App. Div., July 15, 1993), the Superior Court of New Jersey, Appellate Division, affirmed the Commissioner of Personnel's decision to deny a request for waiver of repayment of salary overpayment, finding that, although the appellant had established that the overpayment was the result of an administrative error, he failed to show that enforcement of the repayment would create economic hardship.

The appellant requests a waiver of the salary overpayment since she claims that she was not at fault for the overpayment. Rather, it was due to her unselfish diligence in performing her duties, while waiting for her reclassification. The rule provides that an overpayment that resulted from a specific administrative error, and was not due to mere delay in processing a change in pay status, may be waived. See *N.J.A.C. 4A:3-4.21(a)2*. However, the overpayment in the instant matter was due to a delay in the processing of the change the appellant's title. Therefore, there does not appear to be any "error" in this matter.

Moreover, although the appellant asserts that any repayment amount would result in economic hardship to her, other than general statements, she has not provided any specific information concerning her economic situation. See *In the Matter of Ruth Samonski* (Commissioner of Personnel, decided July 5, 2005) (Waiver of repayment of a salary overpayment in the amount of \$20,568.40 for improperly receiving SLI benefits denied, where the appellant failed to provide any information to establish that the repayment would cause an economic hardship). Compare, *In the Matter of Betty Munoz* (Commissioner of Personnel, decided March 16, 2000) (Waiver of repayment of a salary overpayment that represented 3.9% of the gross salary of an employee who was a single parent with two children granted); *In the Matter of Peter Spencer* (Commissioner of Personnel, decided December 13, 1996) (Waiver of salary overpayment granted since repayment would cause an economic hardship based on employee's level of compensation). Additionally, although the repayment amount in this matter is \$4,764.10, she has already received \$4,274.20 for differential pay, leaving a difference of \$489.90. Moreover, the appointing authority has indicated that she has already been compensated for the additional hours she worked with compensatory time. Further, since the appointing authority has failed to set a repayment schedule, it cannot be demonstrated that the amount the appellant would be required to pay per bi-weekly pay period would create a hardship to her. However, the appointing authority and the appellant are encouraged to set a reasonable repayment schedule for her to repay the \$4,764.10.

**ORDER**

Therefore, it is ordered that this request for a waiver of the repayment of the salary overpayment by Alexandria DiNoia, 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 19TH DAY OF OCTOBER 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: Alexandria DiNoia  
Jessica Chianese  
Kelly Glenn  
Records Center