

B-36



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Annabel Lovell, Agency
Services Representative 4, Department of
Law and Public Safety

CSC Docket No. 2016-3475

Administrative Appeal

ISSUED: APR 12 2017 (BS)

The Division of Agency Services (DAS), on behalf of the Department of Law and Public Safety, requests that Annabel Lovell be provisionally appointed to the unrelated above entry-level title Agency Services Representative 4.

By way of background, Ms. Lovell is currently serving permanently in the non-competitive Clerk Typist title. As a result of a classification appeal, DAS determined that Ms. Lovell's position would be appropriately classified as an Agency Services Representative 4 effective January 23, 2016. However, since Agency Services Representative 4 is an above entry-level competitive title that is not related to Clerk Typist. Ms. Lovell could not be provisionally appointed to the title pending promotional procedures. Rather, absent rule relaxation procedures, her appointment would be recorded as provisional, pending open competitive procedures.

Agency Services Representative 4 required four years of experience providing information and support to customers or clients, responding to technical inquiries and/or complaints regarding products, services or programs, or collecting payments in a government or office setting.

DAS reviewed Ms. Lovell's credentials and concluded that if her out-of-title work experience was accepted, she would satisfy the requirements for the subject title. The Department of Law and Public Safety has indicated that, due to business necessity, including staff attrition and the hiring freeze, it was necessary to assign Ms. Lovell the higher level duties.

In its request to the Civil Service Commission, DAS states that there is a current promotional list (PS1418P) for the title Agency Services Representative 4 in Ms. Lovell's unit scope. However, this list promulgated after Ms. Lovell's effective date of January 23, 2016 as established by the classification appeal determination. Although there are 49 eligible employees in this unit scope, based on the results of the classification audit, DAS recommends that Ms. Lovell's out-of-title work experience as a Clerk Typist be accepted as qualifying experience for Agency Services Representative 4.

CONCLUSION

N.J.A.C. 4A:4-1.1(c) provides that a promotion may be authorized through promotional examination procedures from the non-competitive division of permanent employees who meet the open competitive requirements to: 1) a related entry level title in the competitive division; or 2) in appropriate situations, to a related above-entry level title in the competitive division.

N.J.A.C. 4A:4-2.5(d) states that when a promotion is to be made from the non-competitive division of the career service to a related title in the competitive division of the career service, the examination shall be open to all permanent employees who meet one of the following:

1. Serving in the next lower or next two lower in-series non-competitive titles and possessing the complete open competitive requirements; or
2. Serving in all related non-competitive titles and possessing the complete open competitive requirements.

N.J.A.C. 4A:4-2.5(d)5 states that in extraordinary circumstances, another appropriate title scope may be set.

Finally, *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes. *N.J.A.C.* 4A:4-2.6(c) provides that except when permitted for good cause, applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements.

In the present matter, it is appropriate to relax the provisions of *N.J.A.C.* 4A:1-1.2(c) in order to allow Ms. Lovell to be provisionally appointed, pending promotional examination procedures, to the competitive title Agency Services Representative 4 with an effective date of January 23, 2016. As a result of such appointment, it is appropriate to relax the provisions of *N.J.A.C.* 4A:4-2.3(d) to announce a promotional examination to incumbents in the non-related, non-competitive title of Clerk Typist who demonstrate that they meet the open competitive requirements. It is further ordered that any promotional announcement for Agency Services Representative 4 in Ms. Lovell's unit scope be announced to include all employees in competitive titles

who meet the complete open competitive requirements or any unit scope deemed appropriate per DAS. The Commission notes that there was a complete promotional list in effect for Agency Services Representative 4 (PS1418P) within Ms. Lovell's unit scope which promulgated on February 18, 2016 and her name does not appear on it. The provisional appointee was appointed, effective April 18, 2016, and another eligible on the list had her position reclassified to Agency Services Representative 4 and has been provisionally appointed to the title. As such, the list will be incomplete with only two names remaining.

Since Ms. Lovell was in the non-competitive title Clerk Typist prior to the September 21, 2015 closing date for the promotional examination, she was not eligible to file for the original promotional announcement. Hence, her name did not appear on the original list. However, prior to the promulgation of the subject promotional list, as the result of a classification appeal determination, DAS concluded that Ms. Lovell's correct classification was Agency Services Representative 4, effective January 23, 2016. DAS further found that, if allowed by the Civil Service Commission, her out-of-title work experience while serving in the non-competitive Clerk Typist title would satisfy the open-competitive requirements for Agency Services Representative 4. Additionally, the appointing authority has endorsed Ms. Lovell's out-of-title work responsibilities and provided sufficient justification for the assignment of these duties. Under these circumstances, that good cause has been presented to accept Ms. Lovell's out-of-title work experience as a Clerk Typist as qualifying experience for the title Agency Services Representative 4.

ORDER

Therefore, it is ordered that this request be granted and Annabell Lovell be appointed provisionally pending promotional examination procedures effective January 23, 2016. It is also ordered that a promotional announcement for Agency Services Representative 4 be announced for Ms. Lovell's unit scope open to Clerk Typist and any other title deemed appropriate by DAS. Ms. Lovell is to provide a copy of this decision with the promotional application that she submits. DAS should accept all documented out-of-title work from any other eligible employees who apply.

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 5TH DAY OF APRIL, 2017



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