

B-4



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kyron Planter, Fire
Fighter/Emergency Medical
Technician (M1508T), City of
Bridgeton

List Removal Appeal

CSC Docket No. 2017-524

ISSUED:

JUN 09 2017

(ABR)

Kyron Planter appeals his removal from the Fire Fighter/Emergency Medical Technician (M1508T), City of Bridgeton eligible list on the basis of his failure to complete pre-employment processing.

The appellant, a non-veteran, applied for the subject examination, which had a closing date of August 31, 2015, was admitted and achieved a passing score. The subject eligible list promulgated on March 11, 2016 and expires on March 10, 2018. The appellant's name was certified to the appointing authority on March 21, 2016. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to his failure to complete pre-employment processing. Specifically, the appointing authority asserted that the appellant failed to appear for a May 12, 2016 physical performance test. In support, it submitted a summary of the results of the physical performance tests for the candidates on the March 21, 2016 certification which lists "no show" as the result for the appellant.

On appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement, wherein he states that he never received notification via email, telephone or mail about his being required to appear for a May 12, 2016 physical performance test.

In response, the appointing authority argues that the appellant should not be restored to the subject eligible list because doing so "may set a dangerous precedent." In that regard, the appointing authority notes that the Division of Agency Services (Agency Services) sent out the notification to candidates about the

subject physical performance test via email and consequently, "there is no way for [it] to verify what was and wasn't sent." Accordingly, it maintains that the Commission should uphold the appellant's removal from the subject eligible list because this agency had the ability to review whether, where and when it sent notice of the physical performance test to the appellant and it accepted the appointing authority's request to remove the appellant from the subject eligible list on the basis of his failure to appear for the subject physical performance test.

Agency Services indicates that it sent an email to the appellant's email address of record on April 13, 2016 containing a notice that he was required to appear for a physical performance test scheduled for May 12, 2016 at 11:00 am.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove the appellant from an eligible list was in error.

In the instant matter, the appointing authority removed the appellant's name from the subject eligible list because he did not appear for a required physical performance test on May 12, 2016 after Agency Services sent notice to the appellant's email address of record on April 13, 2016 and therefore, did not complete pre-employment processing. However, the appellant submits a sworn, notarized statement that he did not receive an email on April 13, 2016 requiring him to appear for a physical performance test on May 12, 2016. See *In the Matter of Salena Bradley* (CSC, decided July 16, 2014) (Commission restored appellant's name to the Correction Officer Recruit (S9988R) eligible list as she submitted a sworn notarized statement that she had not received the email from the Department of Corrections notifying her of the date she was to appear for pre-employment processing). Accordingly, under these circumstances, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient justification for removing his name from the Fire Fighter/Emergency Medical Technician (M1508T), City of Bridgeton eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and that the appellant's name be restored to the Fire Fighter/Emergency Medical Technician (M1508T), City of Bridgeton eligible list for prospective employment opportunities.

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 7TH DAY OF FEBRUARY, 2017

Robert M. Czech

Robert M. Czech
Chairperson
Civil Service Commission

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DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17th DAY OF FEBRUARY 2011

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