



B-32

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Souod Hammad,  
Entry Level Law Enforcement  
Examination (S9999U)

Examination Appeal

CSC Docket No. 2017-2115

ISSUED: JUN 12 2017

(RE)

Souod Hammad appeals the denial by the Division of Agency Services (DAS) of his request for a makeup examination for the Entry Level Law Enforcement Examination (LEE) (S9999U).

The appellant was scheduled to take the subject examination on October 29, 2016, but did not appear. Notices of Examination were sent to all eligible candidates two weeks prior to the examination. In an appeal received December 5, 2016, the appellant indicated he had not received a notice, either by mail or by email, and he requested a make-up examination. DAS denied this request on the basis that it did not meet the make-up criteria, which it provided to the appellant. On appeal to the Civil Service Commission (Commission), the appellant reiterated his circumstances. He stated that he did not receive a notification to take the examination. He was asked to submit a signed, *sworn* affidavit that he was not notified of the subject examination, and he responded that he did not receive a notification by mail, and he "first noticed an email of my exam date after receiving a denial letter." He elucidates that he found an email in his spam folder. He states that this was not negligence, but a miscommunication.

*N.J.A.C.* 4A:4-2.9(c), (Make-up examinations), provides that make-up examinations for police, fire, correction officer, sheriff's officer, juvenile detention officer, and other public safety open competitive and promotional examinations, may be authorized only in cases of: 1) death in the candidate's immediate family; 2) error by this agency or the appointing authority; or 3) a catastrophic health condition or injury, which shall be defined as either: i) a life-threatening condition



or combination of conditions; or ii) a period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days. It is noted that this examination was competitive with 39,069 candidates who passed the examination.

*N.J.A.C. 4A:2-1.1(b)* states that, unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation or action being appealed.

### CONCLUSION

In the present matter, Mr. Hammad states that he did not receive notice of the subject examination. However, aside from the mailed notification, in his affidavit he indicates that he received an email notification. This was directed to a spam folder by his computer. In the attempt to ensure that all candidates are appropriately notified, the Commission sends notifications of examinations by two methods, regular mail and email. The appellant swore that he did not receive a written notification, however, his email notification was received, although it was sent by the computer to a spam folder. Clearly, the appellant did not check the spam folder prior to receiving DAS' letter denying his make-up examination. The gravamen of this matter is whether this constitutes inattention or a miscommunication.

The Commission acknowledges the presumption that mail correctly addressed, stamped and mailed is generally received by the party to whom it was addressed. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). It also recognizes that on occasion, such mail never reaches its intended destination. The Commission is generally willing to accept that if an individual is prepared to make a statement under oath, understanding all its implications and consequences, then it is proper to permit the presumption that a notice was not received to be overcome. Nevertheless, candidates were on notice that the examination was to be given in the fall. They are also instructed in the Announcement and Online Application System User Guide to provide accurate information regarding their email address and their mailing address, as the Commission may send information to one or both of these addresses. The appellant was aware that he had a spam folder on his computer, as he checked it after receiving DAS' determination. While spam filters are very good, it was ultimately the responsibility of the appellant to check his spam folder regularly for important emails that may have been sent to spam by mistake. The appellant should have been expecting a notification, and as such, candidates are responsible for checking their email for a notification. They



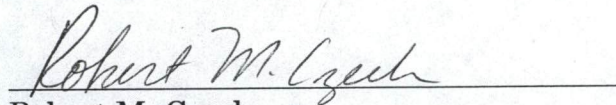
are responsible as well for setting the junk mail control settings on their personal computers, and the Commission is not responsible for a personal computer re-routing the notification to a spam folder. Absent any other valid reasons, under these circumstances, it is not appropriate to schedule a make-up examination for Mr. Hammad.

ORDER

Therefore, it is ordered that this appeal 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  
THE 7<sup>TH</sup> DAY OF JUNE, 2017



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Chairperson  
Civil Service Commission

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c: Souod Hammad  
Kelly Glenn


the responsible as well for setting the bank and control settings on their personal  
computers and the Commission is not responsible for a personal computer  
having the software to a specific folder. About any other valid reasons, such  
these circumstances, it is not appropriate to schedule a hearing examination for  
Mr. [Name]

ORDER

Therefore, it is ordered that the appeal 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  
THE 17th DAY OF JULY 2011

  
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