



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Fire Prevention
Specialist (M0566U), Ridgewood

CSC Docket No. 2017-3090

Appointment Waiver

ISSUED: August 21, 2017 (RE)

Ridgewood requests permission not to make an appointment from the December 21, 2016 certification for Fire Prevention Specialist (M0566U).

The record reveals that Ridgewood provisionally appointed David Yaden, pending open-competitive examination procedures, to the title of Fire Prevention Specialist, effective September 6, 2010. An examination was announced with a closing date of August 25, 2016. The resulting eligible list of nine eligibles promulgated on December 15, 2016 and expires on December 14, 2019. Although Yaden was separated from service on June 1, 2016, the appointing authority did not notify the Civil Service Commission (Commission) of his separation until March 21, 2017, and Ridgewood took no action to obviate the need for the examination at the time of the announcement. On December 21, 2016, the names of all nine eligibles were certified from the eligible list. Ridgewood returned the certification and requested a waiver of the appointment requirement stating that it no longer used the title. However, Ridgewood stated that if it was determined that the title would need to be used in the next three years, it would utilize the list.

Ridgewood's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. Personnel records reveals that there are no employees serving provisionally in the subject title with Ridgewood. In response, Ridgewood reiterated that the provisional is no longer serving in the title.

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 examination for the title of Fire Prevention Specialist was generated as a result of the provisional appointment of Yaden. After a complete certification was issued, Ridgewood indicated that Yaden had been terminated from employment and that Ridgewood no longer uses this title. 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, although Yaden was not still serving provisionally at the time of the certification, the appointing authority had not notified the Commission of his separation nor requested a cancellation of the examination. However, since Ridgewood indicated that it may use the list in the future, it is appropriate to defer selection costs at this time. Nevertheless, in the event that the appointing authority fails to utilize the list by its expiration date of December 14 2019, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the appointment waiver be granted and no selection costs presently be assessed.

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 16th DAY OF AUGUST, 2017



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