



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Electrician  
(M0864W), City of Ocean City

CSC Docket No. 2019-3425

Appointment Waiver

ISSUED: OCTOBER 24, 2019 (BW)

The City of Ocean City requests permission not to make an appointment from the January 7, 2019 certification for Electrician (M0864W), City of Ocean City.

The record reveals that Ocean City provisionally appointed Joseph Scialabbo, pending open competitive examination procedures, to the subject title, effective August 21, 2017. An examination was announced with a closing date of August 6, 2018 that resulted in a list of eight eligibles with an expiration date of January 2, 2022. A certification containing the names of the eight eligibles was issued on December 26, 2018.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving.<sup>1</sup> Specifically, it explained that the City was going through a reorganization which included increasing staff to include an Electrician. Under a new Business Administrator, there was another reorganization with an emphasis on shared services and fiscal responsibility and it no longer has an opening for Electrician.

The appointing authority'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. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

<sup>1</sup> Scialabbo was removed on March 27, 2019.

It is noted that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

### 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 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 subject title was generated as a result of the provisional appointment of Joseph Scialabbo, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that as a result of a reorganization with an emphasis on shared services and fiscal responsibility, it no longer had an opening for Electrician. Accordingly, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, 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 for 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needs to maintain the position of Electrician after it appointed a provisional to that title which resulted in an examination does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

### ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this order.

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 23<sup>RD</sup> DAY OF OCTOBER, 2019**

**Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission**

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**c: Jay Gillian, Mayor  
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Beth Wood**