

test before the qualifying examination could be processed. The appellant took a typing test on January 16, 2018 and did not pass. On January 19, 2018 the appointing authority was informed that the appellant's status in the title could not be made permanent and she failed the typing test. The appellant was administered the typing test twice more on January 25, 2018 and did not pass. Nonetheless, the appointing authority maintained that the appellant's PAQ appointment as a Principal Clerk Typist.

In an appeal dated August 14, 2019, the appellant inquires why she must take a typing test to gain permanency. In this regard, she had been informed by email that the typing test was just an evaluation and did not affect her status of gaining permanency in the title. A copy of that email was not provided. The appellant states that she has been in her provisional appointment for almost four years and has performed satisfactorily, with no problems typing and completing assignments. She indicates that she has a medical problem in her left wrist, which affects her when she types for five minutes straight. In support, she attaches medical documentation dated July 29, 2015 and August 7, 2015 regarding a diagnosis and a surgery. She also included a test report indicating that she took the typing test again on July 31, 2019, but she did not pass.

CONCLUSION

N.J.A.C. 4A:4-7.8(c) provides, in pertinent part, that if the nature of the work, education and experience qualifications of both titles are dissimilar for a voluntary demotion, then the employee shall be appointed pending examination.

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

N.J.A.C. 4A:4-6.4(c) states that an examination candidate wishing to challenge the manner in which the examination was administered must file an appeal in writing at the examination site on the day of the examination.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

At the outset, information regarding the appellant's qualifying examination was sent to DOC in January 2018, the same month that the appellant was administered three qualifying typing tests. Even if the appointing authority had delayed in notifying the appellant, this appeal was received almost one year, eight months after the determination and the test. Accordingly, this appeal is untimely.

Nevertheless, a "Qualifying Examination" is used for lateral or demotional movement between unrelated titles. There is no eligible list, and usually no

examination, but it requires the candidate to demonstrate on her qualifying examination application that she possesses the necessary experience for the subject title in order to effect a title change. A determination of eligibility equates to a candidate passing this type of examination, and generally resulting in the candidate's PAQ appointment being changed to a permanent appointment (RAQ). In this case, however, the title requires a special skill, typing, and therefore a provisional must pass an examination which would verify that the individual possesses the minimum requirements and the special skill. The appellant took the subject examination three times in January 2018, and once in July 2019, and did not receive one passing score.

For reasons unknown, the appellant remained in her provisional position for another year and half although she had been administered the examination three times, and did not pass. After the fourth administration, the appellant provides information regarding a medical condition which she claims prohibited her from performing well on the examination. However, the medical documentation was received in the summer of 2015, long before the typing test was first administered in January 2018. As such, it makes no reference to how the appellant's condition could affect her typing performance in 2018 or 2019, nor did it indicate that she would need special accommodation to perform typing on the actual examination dates. The medical documentation also does not indicate why her medical condition should preclude her participation in the examination. Further, any test administration issues must be filed in writing at the examination site of the test date. The appellant indicated on appeal that she had a disability or condition that affected her performance on the test, yet did not make a request for ADA (Americans with Disabilities Act) assistance until she received notice that she failed the typing test for the second time. Accordingly, Agency Services correctly determined that the appellant did not pass the subject qualifying examination. Therefore, she has failed to support her burden of proof in this matter.

One additional matter needs to be addressed. The appellant was provisionally appointed to the subject title, however, she indicated on her application that she does not supervise, nor did she include any supervisory duties. The Principal Clerk Typist title is a first-level supervisory title, and is in the "R" Employee Relations Group. On his basis alone, it does not appear that the appellant's provisional position is properly classified as Principal Clerk Typist. Further, although it is uncertain that typing is such a priority that the position warrants a typing title. Therefore, Agency Services should review the appellant's job duties to determine the proper classification of her position.

ORDER

Therefore, it is ordered that this request be denied, and the matter of the appellant's position classification be referred to Agency Services for review.

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 23rd DAY OF OCTOBER, 2019



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