



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Appointment Waiver

In the Matter of Supervisor,
Information Technology (M0563W),
Lakewood Township

CSC Docket No. 2020-1054

ISSUED: NOV 12 2019 (BW)

Lakewood Township requests permission not to make an appointment from the February 21, 2019 certification for Supervisor, Information Technology (M0563W), Lakewood Township.

The record reveals that Lakewood Township provisionally appointed Jonathan Petz, pending open competitive examination procedures, to the subject title, effective February 1, 2018. An examination was announced with a closing date of May 7, 2018 that resulted in a list of six eligibles with an expiration date of February 13, 2022. A certification containing the names of the six eligibles was issued on February 21, 2019.

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.¹ Specifically, it explained that the provisional employee has left the employment of Lakewood Township and it has decided not to fill the vacant position.

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. Lakewood states that it has decided not to fill the vacant position and, since it was beyond the Township's control that the employee left employment, it should not be assessed the costs of the selection process.

¹ Petz left employment with Lakewood on June 21, 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 Jonathan Petz. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the provisional employee has left employment and it had decided not to fill the vacant position. 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 has decided not to fill the vacant position 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 6TH DAY OF NOVEMBER, 2019



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