



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Appointment Waiver

In the Matter of Supervisor of Billing
and Collecting (M2014W), City of
Perth Amboy

CSC Docket No. 2020-1024

ISSUED: NOV 12 2019 (BW)

The City of Perth Amboy requests permission not to make an appointment from the June 10, 2019 certification for Supervisor of Billing and Collecting (M2014W), City of Perth Amboy.

The record reveals that the City of Perth Amboy provisionally appointed Candida Leon, pending open competitive examination procedures, to the subject title, effective August 16, 2018. An examination was announced with a closing date of January 14, 2019 that resulted in a list of eight eligibles with an expiration date of June 5, 2022. A certification containing the names of the eight eligibles was issued on June 10, 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 Leon resigned and the position will not be filled due to budgetary constraints.

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. In reply, the appointing authority states that the provisional was serving in the above title as a result of a newly created function within the Tax and Water Utility. Leon submitted an on-line application as a result of the September 15, 2018 announcement for this title but resigned from her position. Also, it requests waiver

¹ Leon resigned on June 28, 2019.

of the selection costs as it does not intend to fill the position due to budgetary constraints.

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 Candida Leon. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the provisional resigned from her position effective June 28, 2019 and it did not intend to fill the 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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