



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ramona Derrick,
Greystone Park Psychiatric Hospital,
Department of Health

Reconsideration

CSC Docket No. 2020-470

ISSUED: SEPTEMBER 26, 2019 (BW)

Ramona Derrick, a Human Services Technician with Greystone Park Psychiatric Hospital, Department of Health, petitions the Civil Service Commission (Commission) for reconsideration of the attached administrative decision, rendered on May 22, 2019, in which the Director of the Division of Appeals and Regulatory Affairs denied her request for a hearing with respect to her removal.

By way of background, in a January 18, 2019 Final Notice of Disciplinary Action (FNDA), the petitioner was removed, on charges of conduct unbecoming a public employee, insubordination, violation of policy and procedure and other sufficient cause. Specifically, the appointing authority asserted that on October 11, 2018, the appellant was directed to submit to a drug test due to her return from a leave of absence, but refused to cooperate in the drug testing procedures.

In his denial, the Director indicated that the petitioner's request for a hearing was denied as she was notified by phone of her removal and did not appeal within 20 days of the mailing of the FNDA.

In her petition for reconsideration, the petitioner claims she was never given a second chance to have the drug test and never offered an opportunity to enter rehabilitation. She does not refute any statements in the original administrative decision or give the date she received the phone call telling her the date the FNDA was sent. However, she does provide a copy of the FNDA with a handwritten notation indicating "Hand Delivered 4/12/19."

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding, which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. A review of the record in the instant matter reveals that reconsideration is not justified.

N.J.S.A. 11A:2-15 provides that appeals from major disciplinary matters be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. This 20-day time limitation is jurisdictional and cannot be relaxed or waived. See *Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); See also, *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978). Further, *N.J.A.C.* 4A:2-2.8(a) states, in pertinent part, that “[a]n appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee.” *N.J.A.C.* 4A:2-2.8(b) states that when an appointing authority fails to provide a FNDA, an employee may appeal within a “reasonable time.”

In this matter, it is unclear as to when the petitioner received notice of her removal. In this regard, on appeal the petitioner indicated she did not receive the FNDA as it was sent to a former address. Rather, she was notified “by phone.” Accordingly, staff of the Division of Appeals and Regulatory Affairs sent a letter to the petitioner requesting the date she was notified by phone that the FNDA was sent. In response, the petitioner sent another copy of the FNDA with the date and her incorrect address highlighted. There was no letter clarifying the FNDA or answering when she received the phone call. Therefore, the Director used January 18, 2019 as the notice date. As that date is more than 20 days from the date of the postmark on the appeal, the request for a hearing was denied as untimely.¹ Moreover, the Commission notes that even if the appointing authority did not provide a FNDA, the petitioner’s appeal is still untimely as it was not filed within a reasonable time. In this regard, she was suspended without pay pending removal on October 24, 2018, her departmental hearing was on December 20, 2018, and the effective date of her removal was January 18, 2019. Clearly, her appeal on April 16, 2019 cannot be considered timely. Accordingly, the petitioner has not met the standard for reconsideration.

¹ Based on the postmark date of her appeal, to be considered timely, the petitioner would have had to received notice no earlier than March 27, 2019.

ORDER

Therefore, it is ordered that this petition be denied.

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 25TH DAY OF SEPTEMBER, 2019



Deirdre L. Webster Cobb
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and
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Attachment

- c. Ramona Derrick
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Records Center