



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Field Representative
Disease Control (M1019G) and
(M1722J), City of Newark

Appointment Waiver

CSC Docket No. 2018-2149

ISSUED: March 13, 2020 (AMR)

The City of Newark requests permission not to make an appointment from the September 4, 2007 certification for Field Representative Disease Control (M1019G) and (M1722J).

The record reveals that the (M1019G) examination was announced for the subject title with a closing date of December 21, 2005 and resulted in a list of three eligibles with an expiration date of March 22, 2009. At that time, Pamela Chance had been appointed provisionally to the subject title effective June 7, 1994 and Shakira Chance was appointed provisionally effective July 2, 2004. However, they did not apply for the (M1019G) examination. Certification (OL060666) was generated on March 27, 2006, but no appointments were made because three of the eligibles were removed for failure to respond to the certification and the remaining eligible's name was retained because the list was now incomplete and provisionals were serving in the title.

Upon further review, Shakira Chance's provisional appointment was incorrectly recorded, as she was a seasonal employee during the years of 2003 to 2004, and was terminated on August 5, 2004. Thereafter, the appointing authority advised this agency that Pamela Chance's provisional appointment was terminated effective February 10, 2006. In 2006, Shakira Chance's CAMPS record indicated she was still a provisional in the title. Accordingly, a second examination for the subject title was announced (M1722J) with a closing date of July 5, 2007 which resulted in a list of four eligibles with an expiration date of August 29, 2010. At that time, Kim Sharpe was also serving provisionally in the subject title effective July 2, 1999. Shakira Chance's record had not been updated to reflect that she was

no longer serving in the subject title, making it appear that two provisionals were currently serving.

On September 4, 2007, a certification (OL071931) of five names was issued to Newark with a disposition due date of December 4, 2007. Newark returned the certification on December 4, 2007, however, no appointments were made. Newark requested an appointment waiver on November 28, 2007, explaining that Shakira Chance and Kim Sharpe were erroneously recorded as provisional when in fact they were temporary, seasonal appointees. Therefore, the announcement and certification were issued in error. It was then determined that Shelease Williams was serving provisionally in the subject title effective March 27, 2006. Williams' name was not on the (M1722J) list. Therefore, the Commission issued a salary disapproval, and Newark was ordered to dispose of the outstanding certification by making a permanent appointment to a reachable and interested eligible and to separate any employee serving provisionally pending open competitive examination procedures. Additionally, the Commission ordered that if the preceding was not completed within 30 days, then the constructive appointment of the highest ranked interested eligible should be made. Furthermore, the Commission assessed compliance costs in the amount of \$500 and indicated that if the appointing authority failed to comply within the required time period, then it was to be fined \$100 per day, up to a maximum of \$10,000. (See *In The Matter of Field Representative Disease Control (M1019G) and (M1722J)*, Newark decided January 14, 2009). It is noted that the appointing authority has remitted the \$500 in compliance costs and Williams was returned to her permanent title of Clerk 1 effective November 30, 2009.

The record indicates, however, that Newark has not properly disposed of or made any appointments from certification (OL071931). Due to reasons unexplained in the record, Newark's November 28, 2007 request for an appointment waiver came to the Commission's attention in 2017¹.

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 examinations for the subject title were generated as a result of the provisional appointments of Pamela Chance, Kim Sharpe, and Shakira Chance, all of who are no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an

¹ Since that time, the Commission lacked a quorum of members to decide the within matter.

appointment waiver, explaining that the appointees to the subject title were erroneously recorded as provisional when in fact they were temporary, seasonal appointments who worked only two months during the summer. In conjunction with the fact that there are no provisionals currently serving, 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 Commission notes that the lists in question have expired on March 22, 2009 and August 29, 2010 respectively. Additionally, it was determined that due to administrative oversight, the records of Shakira Chance and Kim Sharpe were processed incorrectly, causing the examinations to be erroneously announced. However, Pamela Chance and Williams' provisional appointments do not appear to be temporary. The appointing authority advised that Pamela Chance's provisional appointment was terminated effective February 10, 2006, and Williams was returned to her permanent title of Clerk 1 on November 30, 2009. Accordingly, under the particular circumstances of this matter, it is appropriate to assess the appointing authority for the costs of the selection process.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and 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 12th DAY OF MARCH, 2020



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