



STATE OF NEW JERSEY

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

In the Matter of Matthew
Tomaszewski, Burlington Township
Fire District #1

CSC Docket No. 2020-1836

Administrative Appeal

ISSUED: MAY 22, 2020 (DASV)

Burlington Township Fire District #1, represented by Jay C. Sendzik, Esq., requests a lateral title change, pending qualifying examination, for Matthew Tomaszewski, to Fire Official, Uniformed Fire Department (UFD), effective July 14, 2010.

By way of background, Tomaszewski received a regular appointment to Fire Prevention Specialist effective August 3, 2009. He was then provisionally appointed pending promotional examination procedures to Fire Official, effective July 14, 2010, and received a regular appointment to the title on January 26, 2011. The appointing authority indicated that it sought a lateral title change of Tomaszewski to the Fire Official, UFD, title during his provisional appointment as a Fire Official. However, it stated that this agency's operating division, which is now known as the Division of Agency Services (Agency Services), advised that it was not able to effect the lateral title change because the Fire Official, UFD, appointment could only be made promotionally from a Fire Fighter career service position. Since the Burlington Township Fire District #1 is a volunteer firefighter force, the change in title was not permitted. Subsequently, on May 28, 2014 by resolution, the Board of Fire Commissioners created the paid position of Fire Official, UFD. The second reading of the resolution occurred on June 25, 2014, at which time the resolution passed. Once again, the appointing authority requested a lateral title change for Tomaszewski. However, Agency Services denied the request on similar grounds. In 2019, Agency Services received another request from the appointing authority to laterally change Tomaszewski's title to Fire Official, UFD. The appointing authority submitted that the Board of Fire Commissioners reaffirmed its support of

the title change by resolution at its March 14, 2019 meeting. Subsequently, on or about January 22, 2020, Agency Services referred the matter to the Civil Service Commission (Commission) for its review.

In the instant matter, the appointing authority states that the positions of Fire Prevention Specialist and Fire Official were created by the Board of Fire Commissioners. However, at all times from August 3, 2009 Tomaszewski performed the duties of a Fire Prevention Specialist, UFD, and Fire Official, UFD, which included fire suppression events, fire drills, training, and emergency responses. Tomaszewski also acquired and maintained various certifications and possesses an Associate's degree and a Bachelor's degree. Moreover, the appointing authority states that it recently became aware of prior decisions of the Commission which permitted the title change from Fire Official to Fire Official, UFD. *See In the Matter of Scott McCormick, Hamilton Township Fire District #7* (CSC, decided August 1, 2012) and *In the Matter of Matthew Orsini, Moorestown Township Fire District #2* (CSC, decided March 27, 2018). Similar to the case of *McCormick, supra*, the appointing authority points out that Tomaszewski has been a volunteer firefighter for many years and has responded to emergency dispatches during office hours. He also has all the necessary qualifications for the Fire Official, UFD, position. In addition, Tomaszewski was over the age of 18 and under 35 years old at the time of his July 14, 2010 provisional appointment to Fire Official. Furthermore, similar to the case of *Orsini, supra*, the appointing authority emphasizes that Burlington Township Fire District #1 maintains a volunteer fire department. Accordingly, it requests that Tomaszewski's lateral title change be approved pending qualifying examination retroactive to July 14, 2010.

CONCLUSION

According to the job specification for both Fire Official and Fire Official, UFD, candidates are required to possess:

Five years of experience in one or more of the areas indicated below or some combination thereof:

- (1) As a Fire Fighter in a paid or volunteer fire company, and/or
- (2) In the inspection of buildings to detect fire hazards and to enforce fire safety codes and regulations, and/or
- (3) In the investigation of fires to determine their cause, and/or
- (4) In the inspection of the construction of buildings and the review of building construction plans and specifications to ensure compliance with fire protection codes and regulations, and/or
- (5) In the installation of fire protection equipment.

Candidates are also required to possess a current and valid Fire Official certificate issued by the Department of Community Affairs.

In addition to the above requirements, candidates for the title of Fire Official, UFD, must be 18 years old and are advised that, as a prerequisite for appointment, they may be required to pass a thorough medical and psychiatric examination to be administered by the appointing authority, and that any psychological, medical or physical condition or defect which would prevent efficient performance of the duties of the position, cause appointees to be a hazard to themselves or others, or become aggravated as a result of performance of the duties would be cause for rejection. Furthermore, the Fire Official, UFD, job specifications indicate that “[p]ositions in this class may be filled through promotional examination procedures only. Candidates must meet those requirements and qualifications for promotion specified in Civil Service law, rules, and regulations.” In that regard, *N.J.A.C. 4A:4-2.6(a)1* provides in relevant part that applicants for promotional examinations shall have one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. The job specifications for Fire Fighter, UFD, does not state that the promotions are only open to career service Fire Fighters.

In the present case, the appointing authority requests a lateral title change, pending qualifying examination, for Tomaszewski, to Fire Official, UFD, effective July 14, 2010. However, at that time, Tomaszewski did not actually possess one year of permanent service. His regular appointment as a Fire Prevention Specialist was effective August 3, 2009. Furthermore, he did not undergo promotional examination procedures until his regular appointment as a Fire Official effective January 26, 2011. As set forth above, a Fire Official, UFD, position may only be filled through promotional examinations procedures. Therefore, a retroactive title change to July 14, 2010 would be inappropriate. The January 26, 2011 date would also not be appropriate. In *McCormick, supra*, Hamilton Township Fire District #7 had both paid and volunteer Fire Fighters. In *Orsini, supra*, the Moorestown Township Fire District #2 had a paid fire department, albeit only the Fire Chief. In the instant matter, Burlington Township Fire District #1 is an all volunteer fire force. Its Board of Fire Commissioners did not pass the resolution to create a paid Fire Official, UFD, position until June 25, 2014. Thus, while the appointing authority asserts that Tomaszewski has been performing the duties of a Fire Official, UFD, since August 3, 2009, under these circumstances, June 25, 2014 would be the earliest date that an appointment could have been made.

Moreover, the Commission finds that once Tomaszewski reached one year of permanent service, and assuming that the position of Fire Official, UFD, had been created earlier, the appointing authority could have requested a promotional examination for Fire Official, UFD. While historically, a promotable eligible for Fire Official, UFD, would hold a career service Fire Fighter title, the job specification for Fire Official, UFD, does not require it. Therefore, upon an appointing authority’s request, Agency Services need not require service as a career service Fire Fighter in order to satisfy the requirements of the title. Rather,

candidates must meet the requirements of the title as set forth in the job specifications for Fire Official, UFD, and *N.J.S.A.* 40A:14-45 which provides in relevant part that:

In any municipality where an examination is scheduled to determine appointments to the paid or part-paid fire department and force, any qualified fireman having served in the volunteer fire company or force of the municipality for at least 2 years next preceding such appointment shall be entitled, in addition to his earned rating, to service credits of not less than 3 nor more than 10 points as may be determined by the governing body of the municipality or the authority in charge. **Said appointee shall be over 21 but not more than 40 years of age at the time of the appointment.** [Emphasis added].

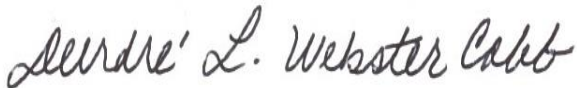
Therefore, the Commission finds good cause to grant Tomaszewski a lateral title change, pending qualifying examination, to the title of Fire Official, UFD. *See N.J.A.C.* 4A:4-7.6(c). Should Tomaszewski pass the examination and a current working test period, his appointment date shall be recorded as June 25, 2014. Therefore, this matter is being referred to Agency Services to process the title change. Agency Services is also directed to review the promotional requests for the title of Fire Official, UFD, in accordance with this decision.

ORDER

Therefore, it is ordered that this request be granted in part, and the matter of Matthew Tomaszewski's lateral title change, pending qualifying examination, be referred to Agency Services to process.

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
20TH DAY OF MAY, 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Matthew Tomaszewski
Jay C. Sendzik, Esq.
John Stewart
Kelly Glenn
Records Center