



**STATE OF NEW JERSEY**

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

In the Matter of Supervisor  
Sanitation (M0429V), Newark

Request for Enforcement

CSC Docket No. 2019-1852

**ISSUED: JULY 31, 2020 (HS)**

The Division of Agency Services (Agency Services) requests that Newark be ordered to return the January 10, 2018 certification (OL180037) of the eligible list for Supervisor Sanitation (M0429V) for proper disposition.

By way of background, Newark provisionally appointed William Lane and Sadiyq Lassiter, effective January 1, 2017; and Bertha Bradley, effective June 1, 2017, to the title of Supervisor Sanitation, all pending open-competitive examination procedures. As a result, an examination was announced (M0429V) for the subject title with a closing date of June 22, 2017, which resulted in a list of nine eligibles that promulgated on October 5, 2017 and expires on October 4, 2020. It is noted that Lane did not apply, and Bradley and Lassiter were deemed ineligible. A certification (OL171172) was issued on October 10, 2017 and consisted of all nine eligibles. Newark returned the certification, making five regular appointments and removing the names of two eligibles. It also indicated that Reginald Curtis and Marvin Harrison were interested but that they would not be appointed since the certification was incomplete. Lane was returned to his permanent title of Truck Driver.

Thereafter, Harrison contacted Agency Services and indicated that he was interested in a provisional appointment. As a result, a second certification (OL180037) consisting of the names of Curtis and Harrison was issued on January 10, 2018. Newark did not return the certification by the required disposition date. Agency Services issued a Notice of Violation and Salary Disapproval Order, both of which notified Newark that it was required to properly dispose of the certification. Subsequently, Newark did return the certification to Agency Services, seeking to

regularly appoint Harrison and retain Curtis as an interested eligible. However, Agency Services did not accept the disposition for Curtis given that two employees were serving provisionally in the subject title and Newark was seeking to regularly appoint one individual, Harrison; retain the other, Curtis, on the eligible list; and retain both provisional employees. As such, Agency Services could not record the disposition of the certification as a proper disposition had not been received.

Newark was notified that the matter had been referred to the Civil Service Commission (Commission) for enforcement and that the Commission was reviewing the matter for possible action to be taken against Newark for its failure to properly dispose of the certification. Newark did not submit any additional information.

Personnel records reveal that Bradley and Lassiter continue to serve provisionally in the subject title.

## CONCLUSION

In the instant matter, Newark returned the certification, seeking to regularly appoint Harrison; retain Curtis on the eligible list as interested but not appointed; and retain Bradley and Lassiter as provisional employees in the subject title. However, the requested disposition for Curtis is not appropriate under the circumstances. In this regard, *N.J.S.A. 11A:4-8* and *N.J.A.C. 4A:4-4.2(c)2i* provide that when fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title. Also, *N.J.A.C. 4A:4-1.5(a)1* provides that one of the conditions to be met before a provisional appointment may be made is that there is no complete list of eligibles, and no one remaining on an incomplete list will accept provisional appointment. In returning the certification, Newark has indicated that Curtis was interested in an appointment. Therefore, in order to properly dispose of the certification, Newark must either: provide a signed statement from Curtis indicating that he is not interested in a provisional appointment; provide a legitimate reason for his removal from the eligible list; provisionally or regularly appoint Curtis to the subject position; or vacate the provisional positions.

The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A. 11A:10-3*; *N.J.A.C. 4A:10-2.1(a)2*. See *In the Matter of Fiscal Analyst (M1351H), Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). Therefore, Newark is ordered to properly return the certification within 20 days of receipt of this decision. If, at any time, Newark does not adhere to the timeframes for the proper certification disposition

without an approved extension of time, it shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

### ORDER

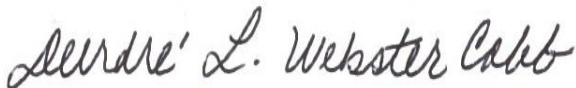
Therefore, it is ordered that Newark properly dispose of the January 10, 2018 certification (OL180037) of the eligible list for Supervisor Sanitation (M0429V) within 20 days of receipt of this decision.

Furthermore, the Commission orders that the costs incurred by this agency in the compliance process be assessed against Newark in the amount of \$1,000, pursuant to *N.J.S.A.* 11A:10-3 and *N.J.A.C.* 4A:10-3.2(a)5, to be remitted within 30 days of receipt of this decision.

If no proper disposition is made within 20 days of receipt of this decision, without an approved extension of time, the Commission orders that Newark be assessed a fine in the amount of \$1,000 for its failure to properly dispose of the certification. Thereafter, Newark shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

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 29<sup>TH</sup> DAY OF JULY, 2020




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