



STATE OF NEW JERSEY

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

In the Matter of Harvey Wills
Township of Pemberton, Department
of Recreation

Reconsideration

CSC Docket No. 2021- 1413

ISSUED: MAY 24, 2021 (BW)

Harvey Wills, a Maintenance Worker 2, Grounds, with the Township of Pemberton, represented by David Tucker, President, Government Workers Union (GWU), petitions the Civil Service Commission (Commission) for reconsideration of the final administrative decision, rendered on March 3, 2021, in which the Director of the Division of Appeals and Regulatory Affairs denied his request for a hearing with respect to his 15 working day suspension.

By way of background, in a January 26, 2021 Final Notice of Disciplinary Action (FNDA), the petitioner was suspended for 15 working days, on charges of chronic or excessive absenteeism or lateness, conduct unbecoming a public employee, insubordination, incompetency, inefficiency or failure to perform duties, neglect of duty and other sufficient cause. Specifically, the appointing authority asserted that between August 24, 2020 and September 25, 2020, the petitioner continually and habitually took more than his allotted time for his daily lunch break and was absent from work without authorization for a total of 8.8 hours.

The record indicates that the petitioner’s FNDA was personally served on January 27, 2021. His letter of appeal of that FNDA was postmarked February 19, 2021. Since the appeal was not perfected within 20 days of receipt of the FNDA, the request for a hearing was denied.

In his petition for reconsideration, the GWU acknowledges that Wills was personally served his FNDA on January 27, 2021, however, claims that it did not receive a copy of the FNDA until February 9, 2021, by email, due to its office being closed due to COVID exposure. The office was closed for 14 days to quarantine and clean. GWU also states it was delayed in filing the FNDA due to the Township's delay in providing the FNDA to it.

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 that "An appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee. Receipt of the Notice on a different date by the employee's attorney or union representative shall not affect this appeal period."

In the instant matter, the FNDA was personally served to petitioner on January 27, 2021. Under these circumstances, the petitioner did not meet the 20 day filing requirement, and he has not presented a basis to grant a hearing. Accordingly, the petitioner has not met the standard for reconsideration.

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 19TH DAY OF MAY, 2021

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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