



## STATE OF NEW JERSEY

In the Matter of Joseph Zizzamia, Equipment Operator (PS2898T), Department of Transportation

CSC Docket No. 2015-324

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

**Examination Appeal** 

ISSUED: OCT 2 3 2014

(RE)

Joseph Zizzamia appeals the denial of his request for a make-up examination for Equipment Operator (PS2898T) Department of Transportation.

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The appellant was scheduled to take the subject examination on May 28, 2014 and did not appear for the examination. About a week before the examination, the appellant wrote a letter to the Division of Selection Services (DSS) stating that he was hurt on the job on February 22, 2014, is currently receiving Workmen's Compensation, and would not be able to make it to the examination. DSS indicated that the rule N.J.A.C. 4A:4-2.9 states, in pertinent part, that make-up examinations can only be given for serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons. DSS indicated that the appellant's request was denied as no documentation had been submitted.

On appeal, the appellant stated again that he was out of work when the test was given, and he provided remittance stubs for Workers' Compensation checks. Civil Service Commission staff explained to the appellant that he did not include a doctor's certificate specifying that he was not able to take the test on the day of the test for medical reasons, and that he must indicate the nature of the serious illness or injury. He was also told that indicating that he was not working on that date is insufficient, and that he was scheduled to take the examination on May 28, 2014, although he stated in his first letter that he was scheduled for May 29, 2014. Staff specified that the pay stubs he had included for Worker's Compensation covered from May 31 to July 11, 2014, and did not include either May 28 or 29, 2014.

The appellant responded by providing a remittance stub for a Worker's Compensation check for the period May 17 to May 30, 2014. He also included a physician's note dated August 12, 2014 which stated that he could not return to work until September 2, 2014. It also indicated that the "patient was out of work from surgery date 5/1/14-9/2/14" and included the diagnosis "Status post R RCR."

- N.J.A.C. 4A:4-2.9(a), Make-up Examinations, provides that make-up examinations, except for police, fire and professional level engineering promotional examinations, may be authorized for the following reasons:
  - 1. Error by the Commission or appointing authority;
- 2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
  - 3. Documented serious illness or death in the candidate's immediate family;
  - 4. Natural disaster;
- 5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation; and
  - 6. Other valid reasons.

## **CONCLUSION**

The record establishes that the appellant was scheduled to take a performance examination on May 28, 2014 and did not do so. Despite two requests for documentation, the appellant did not supply a comprehensible diagnosis from his physician, and he did not describe a serious illness or disability which precluded the appellant from taking the test on the test date. The physician's note was to excuse the appellant from work from May 1, 2014 to September 2, 2014, although it did not indicate that he was unable to take the test on May 28, 2014. Nevertheless, the Commission notes that the appellant was out of work from at least February 22 to September 2, 2014, and the examination was a performance test. Thus, the restrictions which would have kept him out of work would also have prevented him from taking the performance examination. Based on the unique facts of this case, good cause exists to afford the appellant a make-up examination under N.J.A.C. 4A:4-2.9(a)6.

## **ORDER**

Therefore, it is ordered that this appeal be granted.

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 COMMISION THE 22<sup>nd</sup> DAY OF OCTOBER, 2014

Robert M. Czech

Chairperson

Civil Service Commission

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