

B-51



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Robert Christopher
and George Kelly, Equipment
Operator (PC0677R), Middlesex
County

CSC Docket Nos. 2014-1097 and
2014-1143

Examination Appeals

ISSUED: **MAR - 9 2015** (CSM)

Robert Christopher and George Kelly appeal their scores on the promotional examination for Equipment Operator (PC0677R), Middlesex County. It is noted that both appellants achieved a final average score of 70.00 and were tied at rank 5 on the eligible list. These appeals have been consolidated due to common issues presented.

By way of background, the promotional announcement at issue was open to employees in the competitive division who had an aggregate of one year of continuous permanent service in the title of Laborer 1 or in any competitive title who met the experience and license requirements as of the March 21, 2013 closing date (see attached). Six incumbents in the competitive title of Maintenance Worker 2, Grounds applied for the examination but were deemed ineligible because movement to the Equipment Operator title did not represent a promotion. Four incumbent Maintenance Workers 2, Grounds, including the appellant, appealed this determination to the Civil Service Commission (Commission), arguing that the position of Equipment Operator would represent a promotion. The Commission determined that the Equipment Operator title requires a higher level of expertise than the Maintenance Worker 2, Grounds title and would represent a promotion. Accordingly, the Commission ordered the former Division of Selection Services (Selection Services)¹ to review the applications of those Maintenance Worker 2, Grounds who applied for the subject examination to determine their further eligibility *i.e.*, if they satisfied the experience requirements, for the examination. *See In the Matter of Robert Christopher, et al., Equipment Operator (PC0677R)*

¹ Now the Division of Agency Services.

(CSC, decided September 18, 2013). Subsequently, Selection Services reviewed the applications, determined that the Maintenance Workers 2, Grounds who filed applications satisfied the experience requirements for Equipment Operator, and conducted a ranked unassembled examination that evaluated relevant experience as indicated on the applicant's original application. The six Maintenance Workers 2, Grounds all received a score of 70.000 and were tied at rank #5 on the eligible list.

On appeal, Christopher states that he has over 15 years of experience operating equipment and that he listed the percentages of time that he operated specific equipment on his original application. He also states that he received higher pay when he is required to operate various pieces of equipment. Therefore, Christopher questions how he could rank below the top four eligibles on the list.

Kelly presents that he has 14 years of experience and that he utilizes a pay-loader approximately 50 to 60 percent of the time in the performance of his duties. He states that he loads trucks with such things as dirt and playground mulch utilizing a pay loader and that he also uses equipment consistent with what can be utilized by an incumbent in the Equipment Operator title. Kelly also questions how he could rank below the top four eligibles on the list. As such, he maintains that he should have received a higher score.

CONCLUSION

Initially, as noted earlier, the subject promotional examination was processed as a "ranked unassembled" examination involving the evaluation of experience as set forth on the candidates' examination applications. The scoring standard in this case provided that full credit would be awarded for full-time experience in the operation and maintenance of motorized excavating, grading, paving, earth moving, hoisting, moving, construction equipment or related construction vehicles. Half-credit would be awarded for the same experience if the candidate indicated that he/she performed those duties less than 50% of the time. It is important to note that both the promotional announcement and the application caution applicants that if an unassembled examination were held, failure to complete the application properly could lower the score or cause a candidate to fail. Moreover, applicants were specifically advised to give full dates of employment (month/year), indicate whether the job was full or part time, the number of hours worked per week, and that the application may be the only "test paper." It is noted that the only experience evaluated for scoring credit was that gained 10 years prior to the announced closing date of March 21, 2013.

On his original application, Christopher indicated that he was a Senior Park Maintenance Worker and Park Maintenance Worker (now Maintenance Worker 2,

Grounds and Maintenance Worker 1, Grounds) from March 2002 to the closing date. In pertinent part, Christopher described his experience for these positions as:

With a 655 C New Holland backhoe loader, I have loaded straight trucks and tandems with topsoil, bank run, rock, stone, wood, branches, wood chips, [and] stone dust ... I have leveled large tracts of land by front blading, free floating and back dragging with the front bucket [of a Ford 260 C Tractor] ... I use an RE 70 Skid Loader with tracks ... I use a Case 621B front-end loader [for the] loading and removal of huge trees ... In case we do paving, I use a [1 ton or 3 ton] double drum vibrating roller.

Christopher indicated that he operated and maintained this equipment 95% of the time as a Park Maintenance Worker 2, Grounds and up to 85% of the time as a Park Maintenance Worker 1, Grounds.

Kelly indicated on his original application that he was a Maintenance Worker 2, Grounds from May 2011 to the closing date. Kelly described his experience on his original application in this position as:

Operate backhoe, skid loader, tractors, bucket trucks, mowers and other power equipment associated with ground maintenance and landscaping activities ... operate snow removal equipment such as plows, spreaders and snow blowers.

He also indicated the performance of a number of other duties, such as operating and repairing the irrigation system, planting and maintaining trees and shrubs, painting and repairing signs and picnic benches, painting and maintaining buildings, and spraying for weeds and insects. As a Park Maintenance Worker from December 2004 to May 2011, Kelly indicated that he performed a number of duties such as repairing mower blades, adjusting snow plows and salt spreaders, fertilizing grass, operating and maintaining the irrigation system and operating a tractor or riding mower. As a Laborer, Kelly also indicated performance of a number of "manual" duties such as watering lawns and mixing cement and mortar and that he "operate[d] some light equipment."

Selection Services did not credit the appellants with any experience gained in the Maintenance Worker, Grounds title series as it determined that such experience would be considered out-of-title work. It is noted that the open competitive requirement for Equipment Operator is one year of experience in the operation and maintenance of construction and maintenance equipment. However, it has long been recognized that a disputed task not specifically addressed in this agency's job specification may be considered acceptable related work based on nature and frequency so long as there is a nexus between the disputed task and the primary

focus of the job specification. Conversely, when a disputed task bears no relationship to the primary duties of the position, such task is inappropriately assigned. *See In the Matter of Morris County Snow Removal Policy* (Commissioner of Personnel, decided February 19, 2003). Additionally, it cannot be ignored that applications are reviewed in a manner that ensures that the integrity of the State classification system is maintained and consistently applied, applicable experience is considered, regulatory requirements are satisfied, and for the Commission, equitable concerns specific to each situation are addressed. Thus, experience should be evaluated in the context of the environment in which the applicant works. *See In the Matter of Karen Dolan, et al.* (MSB, decided July 19, 2006) (Logical nexus existed between the duties performed by appellants and those required to establish eligibility for the title under test).

Incumbents in the Maintenance Worker, Grounds title series perform work in caring for and maintaining park grounds, athletic fields/turf and related equipment, recreational areas, facility grounds, and other landscaped and lawn areas. In the course of the performance of these duties, it is not unreasonable that incumbents in the title, such as the appellants, would operate and maintain various types of construction and maintenance equipment such as backhoes, skid loaders, tractors, bucket trucks, mowers and other power equipment associated with ground maintenance. Accordingly, such experience should not be considered out-of-title work. Therefore, applicants in the Maintenance Worker, Grounds title series who specify on their original application materials the performance of such duties should receive the appropriate scoring credit for the subject examination. However, if an applicant in the Maintenance Worker, Grounds title series does not specify on his or her original application materials the operation and maintenance of the above noted types of construction and maintenance equipment, no credit should be awarded as there would be no evidence of satisfying the open competitive requirements for Equipment Operator.

This agency has a duty to insure that all applicants for an examination are given equal opportunity to demonstrate their relative merit and fitness. In this light, particularly when an examination is conducted utilizing the ranked unassembled examination process (where each month of relevant experience is assigned scoring credit), it is essential that applicants provide their months and years of employment. Without such information, an eligible could receive scoring credit for time in which he/she did not gain the required experience. As such, the application requests, and it is incumbent upon the applicant to provide, the specific month and year where an applicant performs specific duties. This information is crucial, because it is essentially equivalent to correct responses on a multiple-choice, or "assembled" examination. Thus, the Commission must primarily focus on the "test papers," *i.e.*, the original application materials presented to Selection Services for review, and determine if an "error" was made in the "scoring" of the test or other noncompliance with Civil Service law and rule.

In this case, the appellants indicated on their original applications that they operated various types of equipment prior to the announced closing date. Christopher indicated utilizing this equipment between 80% and 95% of the time in the Maintenance Worker, Grounds title series since March 2002. As such, Christopher should have been awarded full credit for his 10 years of applicable experience. With respect to Kelly, he indicated on his original application that he primarily operated the required construction and maintenance equipment as a Maintenance Worker 2, Grounds from May 2011 to the March 2013 closing date. However, while his original application materials indicate that he operated some of this equipment as a Park Maintenance Worker and Laborer, it is clear that he did not primarily operate such equipment. Therefore, the Commission finds that Kelly should be awarded 1 year and 11 months of full credit and 8 years and 1 month of half credit.

With respect to the appellants' allegations regarding other candidates' credentials, without more, they have not demonstrated that an error was made in the screening of eligibles for the subject examination or in the calculation of their scores. Therefore, since the appellants have not provided specific challenges to other eligibles' credentials, they have not demonstrated that any of the other eligibles were inappropriately admitted to the examination. Nevertheless, all applications were screened by Selection Services prior to the examination to ensure that all candidates possessed the minimum requirements to establish eligibility for the examination.

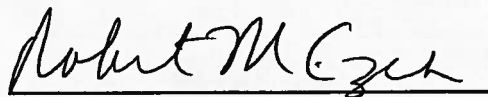
Finally, the Division of Agency Services should review the job specifications for the Maintenance Worker, Grounds title series and make any clarifications as it deems necessary consistent with this decision.

ORDER

Therefore, it is ordered that these appeals be granted and that the appellants' applications be rescored consistent with this decision.

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 4TH DAY OF MARCH, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Robert Christopher
George Kelly
Dennis J. Cerami
Kelly Glenn
Kenneth Connolly

NEW JERSEY CIVIL SERVICE COMMISSION
COUNTY AND MUNICIPAL GOVERNMENT SERVICES
PROMOTIONAL ANNOUNCEMENT



\$25.00 PROCESSING FEE REQUIRED
Make Check/Money Order Payable to NJCSC

SYMBOL: PC0677R

WEIGHT CODE: *

TITLE: EQUIPMENT OPERATOR

SALARY: \$24,800.00 - \$78,326.00

ISSUE DATE: March 01, 2013

CLOSING DATE: March 21, 2013

TITLE CODE: 01746/ O4RMR2

JURISDICTION CODE: T12000031

JURISDICTION: MIDDLESEX COUNTY

DEPARTMENT: PARKS AND RECREATION

RETURN COMPLETED APPLICATIONS TO:

**NJ Civil Service Commission
44 South Clinton Avenue, PO Box 322
Trenton, NJ 08625-0322**

Open to employees in the non-competitive division who have an aggregate of one year of continuous permanent service as of the closing date, are currently serving in the following title(s) and meet the requirements listed below:

Laborer 1

Or to all employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date, and meet the requirements listed below:

Experience: One (1) year of experience in the operation and maintenance of construction and maintenance equipment.

Note: Appropriate formal training in the operation of maintenance/construction equipment may be substituted for the indicated experience. You must indicate the details of the training program on your application. Failure to do so will result in rejection from the examination process.

License: Appointees must possess a driver's license valid in New Jersey. Appointees will also be required to possess a valid Class B Commercial Driver's License (CDL) and applicable endorsements for the type of vehicle being operated.

Note: The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicles they operate rests with the appointing authority.

Special Note: If you list experience in titles other than equipment operator titles, you **MUST** indicate the percentage (%) of time spent operating equipment for each position listed or the experience will not be evaluated for credit.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. **YOU MUST COMPLETE YOUR APPLICATION IN DETAIL.** Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title **SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.**
5. Applications must be postmarked by 11:59 pm on the closing date or application filing deadline listed above, or must be hand-delivered to the Civil Service Commission no later than 4:00pm on the closing date or application filing deadline listed above.
6. In accordance with Public Law 2010 c. 26, Veterans pay a reduced application fee of \$15.00 if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. **PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES.** (i.e. Police, Fire, Corrections and Sheriff).
7. **SAVE ON POSTAGE! GO PAPERLESS! RECEIVE IMMEDIATE CONFIRMATION THAT YOUR APPLICATION HAS BEEN RECEIVED!** You can now file an application for this examination on-line. Visit the Civil Service Commission website at <http://info.csc.state.nj.us/epoa>. Select the promotional announcement and click on the link, "Click Here to file On-Line" at the top of the announcement. You can now complete and submit your application and payment on-line to the Civil Service Commission and you will receive an immediate receipt confirmation!

DPF-256A • Revised 03/09