



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of
Terry Bell, Fire Captain
(PM1140S), Rahway

CSC Docket No. 2016-2778

Examination Appeal

ISSUED: **NOV 16 2016** (RE)

Terry Bell appeals his score for the oral portion of the promotional examination for Fire Captain (PM1140S), Rahway. It is noted that the appellant passed the subject examination with a final score of 89.230 and his name appears as the fourth ranked eligible on the subject list.

It is noted for the record that this two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% was the oral communication score for the arriving exercise.

The oral portion of the Fire Captain examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (arriving). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five minute preparation period was given and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. If the SME scores differed by 1 point, the score was averaged. If they differed by more than 1 point, the SMEs were required to confer with each other until they agreed on a score. Scores were then converted to standardized scores.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined. For the evolving scenario, the appellant scored a 5 for the technical component, a 5 for the supervision component, and a 4 for the oral communication component. For the arriving scenario, the appellant scored a 5 for the technical component, a 4.5 for the supervision component, and a 4 for the oral communication component.

The appellant challenges his scores for the oral communication components of both scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

For the oral communication components of both scenarios, the assessors indicated that the appellant displayed a weakness in nonverbal communication, by failing to maintain eye contact with the camera and reading from his notes. On appeal, the appellant states that he was not told that eye contact would be part of the scoring process. Moreover, he states that his chair was too high and away from the desk causing him to lean over, and which cut off the top half of his head on the video.

In reply, the orientation guide that was available to each candidate indicated that oral communication, the ability to communicate clearly and concisely, was a component of this portion of the exam. A factor in oral communication is nonverbal communication, which includes using gestures effectively without causing confusion or distractions, and making eye contact when speaking.

A review of the evolving scenario indicates that the appellant's lack of eye contact was a weakness. The appellant states that he was unaware that eye contact, *i.e.*, nonverbal communication, would be scored. In this respect, candidates were permitted to use their notes, but they were told to make their presentation to the camera. Further, it is noted that test conditions were standardized in their application to all candidates, *i.e.*, nonverbal communication (including eye contact) was assessed for all candidates. Prior to commencing the examination, the room monitor reads the same information to every candidate. When giving instructions, the monitor told the appellant to direct his responses to the video camera and not to her, as she will not be involved in the scoring of the examination. She said, "Make your presentation to the camera as though the camera were your audience." This was a formal examination setting, and candidates were told to address the camera.

It was at this point that the appellant should have brought up the issue of the height and positioning of his chair if he was uncomfortable. He did not mention this issue at all. Any argument regarding chair positioning is a test administration appeal. Appeals of test administration must be filed in writing at the examination site. See *N.J.A.C. 4A:4-6.4(c)*. Monitors are required to make an announcement before the start of each examination that, should a candidate wish to appeal the test administration, he or she *must* do so at the test center. Additionally, all candidates for examinations are provided with an informational flyer that specifically informs them of the need to appeal administration issues, including how the examination is conducted, at the examination center. The Appellate Division of Superior Court has noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003).

During the evolving scenario, the appellant was clearly aware of the camera and was addressing it. Nevertheless, he spent a significant amount of time looking down at his notes. The camera was directed low, and the appellant's forehead was not framed when he sat up and leaned back in his chair. Nonetheless, the appellant's eyes were visible throughout most of the presentation. For review purposes, it is assumed that when the candidate's eyes are not visible, he was looking at the camera. When he began his presentation, the appellant made eye contact with the camera and spoke to the camera except when giving size-up factors, which he read from the scenario. The appellant generally made eye contact

when calling for resources; however, as he began to provide actions for his companies, he read from his notes and rarely looked up the camera while doing so. He kept track of his place in the notes with his left hand, touching the paper or pointing to words he was reading. As the presentation went on, the appellant sped up his delivery and looked more at his notes and less at the camera. He was reading from his notes and giving the camera quick glances at the end of sentences. He did not maintain acceptable eye contact throughout his presentation. As such, the appellant's presentation for the evolving scenario had a weakness in non-verbal communication, and his score of 4 for the oral communication component is correct.

The appellant's non-verbal communication for the arriving scenario was similar, except the appellant began speaking while looking down and made less eye contact. He had very little eye contact with the camera during this presentation. His first eye contact with the camera was almost a minute after starting the presentation, when he was calling for resources. In many instances, the appellant spoke multiple sentences without looking up from his notes. He hunched over his papers, fidgeted in his seat, and touched or waved his hand over his papers repeatedly. The appellant answered question 2 for one minute, 25 seconds before looking up at the camera. After looking at the camera briefly, he continued responding while looking down at his notes. The appellant did not bring up the issue of his chair height while in the examination room, and this exam administration issue is untimely, as noted above. He did not make his presentation to the camera as directed, and his presentation contains at least one weakness. His score for this component will not be changed.

CONCLUSION

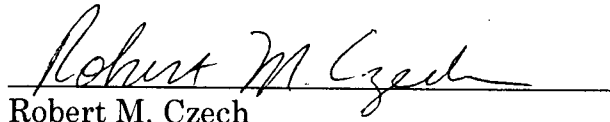
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal 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
THE 10th DAY OF NOVEMBER, 2016



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