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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of the Overtime
Program, Department of Community
Affairs, Bureau of Housing
Inspection, Division of Codes and
Standards

CSC Docket No. 2017-1554

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ISSUED: **FEB 14 2017**

(SLD)

The Division of Agency Services (Agency Services), on behalf of the Department of Community Affairs (DCA), requests that the provisions of *N.J.A.C. 4A:3-5.3* be relaxed to provide individuals in the non-limited, non-exempt (NE) titles of Inspector 3, Multiple Dwellings, Inspector 2, Multiple Dwellings, Senior Field Representative Housing, Code Enforcement, and Compliance Officer 2, Code Enforcement, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours.

In its request, Agency Services states that the DCA's Bureau of Housing Inspection is the chief enforcing agency for the New Jersey Hotel and Multiple Dwelling Regulations and due to staff shortages and the implementation of a new computer system, its inspection staff is behind schedule and is working to address a backlog of over 76,000 inspections. The DCA's long-term solution is to hire 10 full-time inspectors, but the estimated time between approval to hire and a fully-trained inspector is approximately six months. Additionally, offering current employees compensatory time off for hours worked between 35 and 40 hours would adversely impact operational needs. Agency Services explains that the overtime program would include up to 70 employees who would each work an additional 10 hours per week to reduce the current backlog. Agency Services also recommends that the program have a maximum duration of six months and that the DCA submit a monthly report to include the number of overtime hours worked and the amount of compensation paid.

CONCLUSION

N.J.A.C. 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1 provide, in pertinent part, that employees in NE titles are entitled to overtime compensation at the rate of one and one-half times their regular rate of pay "for time worked in excess of 40 hours per week" with the approval of the Civil Service Commission or designee. However, per *N.J.A.C.* 4A:3-5.3(d)2, for work performed in excess of 35 hours per week, up to 40 hours, employees in NE titles are only entitled to comparable amounts of time off, not cash overtime compensation.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

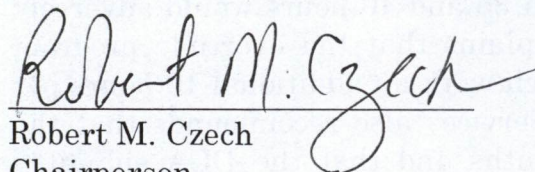
Due to the Bureau of Housing Inspection's backlog of over 76,000 inspections, it is appropriate to permit NE employees who work more than 40 hours in a week to receive cash overtime per *N.J.A.C.* 4A:3-5.5(a)1 and *N.J.A.C.* 4A:3-5.5(b)1. Further, under these particular facts and circumstances, it is also appropriate to relax the provisions of *N.J.A.C.* 4A:3-5.3 and provide individuals in the titles of Inspector 3, Multiple Dwellings, Inspector 2, Multiple Dwellings, Senior Field Representative Housing, Code Enforcement, and Compliance Officer 2, Code Enforcement, cash compensation at one and one-half times the regular rate for hours worked between 35 and 40 hours until August 8, 2017, which is six months from the date of this decision. Further, DCA shall provide Agency Services a monthly report to include the number of overtime hours worked and the amount of compensation paid.

ORDER

Therefore, it is ordered that this request 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 COMMISSION ON
THE 8TH DAY OF FEBRUARY, 2017



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