

*In the Matter of Anthony Crane, Practical Nurse (Special Reemployment List),  
Department of Human Services*  
CSC Docket No. 2014-284  
**(Civil Service Commission, decided June 4, 2014)**

Anthony Crane appeals the attached decision of the former Division of State and Local Operations (SLO)<sup>1</sup>, which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Practical Nurse (Special Reemployment List), Department of Human Services, eligible list on the basis of failure to appear for the interview.

The appellant's name appeared on the September 17, 2012 certification (PS121054) from the special reemployment list for Practical Nurse, Trenton Psychiatric Hospital.<sup>2</sup> The appointing authority contacted the appellant for an interview. The appointing authority informed the appellant that the only shift available for the subject position was the 3 p.m. to 11 p.m. shift. The appellant indicated that he was only interested in a 7 a.m. to 3 p.m. shift. Further, he notified the appointing authority that he was not interested in the 3 p.m. to 11 p.m. shift and he would prefer to remain working at the Hunterdon Developmental Center as a Practical Nurse. Thus, the appointing authority removed the appellant's name from the special reemployment list. It is noted that the appellant is currently serving as a Practical Nurse at the Hunterdon Developmental Center and he is assigned to work from 6:45 a.m. to 3:15 p.m.

On appeal to SLO, the appellant asserted, among other things, that he was not scheduled for an interview and he is still interested in the subject position. SLO determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the special reemployment list.

On appeal, the appellant asserts, among other things, that the appointing authority did not interview him for the subject position and he maintains an interest in the position.

In response, the appointing authority states that an interview was set up over the telephone and the appellant failed to appear for the interview. Moreover, the appellant declined the position at the time he was offered an interview.

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<sup>1</sup> Now known as the Division of Classification and Personnel Management.

<sup>2</sup> The appellant was placed on the PS121054 special reemployment list as a result of a layoff from his position at Hagedorn Psychiatric Hospital in June 2012. Prior to the layoff, the appellant was assigned to work from 6:45 a.m. to 3:15 p.m. The appellant was not previously assigned to work at Trenton Psychiatric Hospital.

## CONCLUSION

*N.J.A.C.* 4A:8-2.3(c)3 states that removal of names from a special reemployment list shall be made in accordance with applicable rules. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error. *N.J.A.C.* 4A:4-4.7(a)3 provides that an eligible may be removed from the list for inability, unavailability, or refusal of the eligible to accept appointment. *N.J.A.C.* 4A:8-2.3(e)1 provides that employees who decline reemployment because the position is in a different shift from the position from which they were displaced, or because the position is full time when the position from which displaced was part-time (or vice versa) shall remain on the special reemployment list.

In the instant matter, the appellant argues that his name was improperly removed from the PS121054 special reemployment list for Practical Nurse. The appointing authority argues that it notified the appellant that the only available shift for the subject position was from 3 p.m. to 11 p.m., and he declined to interview for the position. Therefore, his name was properly removed from the eligible list. On appeal, the appellant does not dispute that he was not interested in working the 3 p.m. to 11 p.m. shift or that he declined to interview for the subject position. However, the record reflects that, prior to his layoff in June 2012, the appellant was assigned to work the 6:45 a.m. to 3:15 p.m. shift at Hagedorn Psychiatric Hospital. The record also reflects that he continued to work the same shift after his reassignment to Hunterdon Developmental Center. Based on the circumstances presented in this matter, it is clear that the appellant's shift at Hagedorn Psychiatric Hospital was different from the shift that was available for the subject position. It is also clear that the appellant declined to interview for the subject position due to the different shift. Since the appellant declined to interview for the subject position based on those reasons, the appellant is entitled to have his name restored to the special reemployment list. *See N.J.A.C.* 4A:8-2.3(e)1.

Accordingly, based on the totality of circumstances presented in this matter, the appellant is entitled to have his name restored to the PS121054 special reemployment list for Practical Nurse, Department of Human Services.

## ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name should be restored to the special reemployment list for Practical Nurse, Department of Human Services.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.