



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Alicia Grippaldi,
State Parole Board

Administrative Appeal

CSC Docket No. 2019-318

ISSUED: JANUARY 18, 2019 (ABR)

The State Parole Board (Parole Board) requests relaxation of *N.J.A.C.* 4A:2-6.1(c) to allow Alicia Grippaldi to rescind her resignation in good standing, effective March 18, 2016, and record the time period from March 18, 2016 to July 22, 2016 in her record as a leave of absence without pay.

By way of background, Grippaldi received a regular appointment to the title of Probation Officer, effective October 26, 2009. On January 23, 2016, Grippaldi received a regular appointment to the title of Parole Officer Recruit and entered the Division of Criminal Justice Academy (Academy).¹ On February 22, 2016, Grippaldi was injured at the Academy. Thereafter, she was advised by the Parole Board's Office of Human Resources to resign from her position of Parole Officer Recruit, which she did effective March 18, 2016. Upon her resignation in good standing, Grippaldi received a lump sum payout of \$1,851.64 for 68 hours of unused vacation leave, *i.e.*, 8.5 work days. From February 22, 2016 to July 22, 2016, Grippaldi received Workers' Compensation benefits without pension. Grippaldi was rehired as a Parole Officer Recruit, effective July 23, 2016, and completed the Academy. Grippaldi subsequently received a regular appointment to the title of Senior Parole Officer, effective July 22, 2017.²

¹ Pursuant to *N.J.A.C.* 4A:6-1.2(a)2ii, Grippaldi was credited with 15 vacation days on January 1, 2016.

² Pursuant to *N.J.A.C.* 4A:6-1.2(c)2i, Grippaldi was credited with 12 vacation days on January 1, 2018.

In the instant matter, the appointing authority maintains that it erred in advising Grippaldi to resign in March 2016, because doing so caused her to lose seniority. In this regard, it notes that as she had previous State service, she should have been advised to instead take a leave of absence. If she had been placed on a leave of absence from March 18, 2016 through July 22, 2016, her continuous State service would not have been interrupted and she would currently be entitled to 15 vacation days per year based upon her overall seniority.

CONCLUSION

N.J.A.C. 4A:2-6.1(c) provides that an appointing authority may consent to a request to rescind a resignation prior to its effective date. *N.J.A.C.* 4A:6-1.2 provides in relevant part that:

(a) Full-time State employees in the career service shall be entitled to annual paid vacation leave, credited at the beginning of each calendar year in anticipation of continued employment, based on their years of continuous State full-time or part-time service in the career, senior executive or unclassified service. See (c) below for definition of continuous service.

* * *

2. After the initial month of employment and up to the end of the first calendar year, employees shall receive one working day for each month of service. Thereafter, employees shall receive paid vacation leave as follows:

- i. From the beginning of the first full calendar year of employment and up to five years of continuous service, 12 working days;
- ii. After five years of continuous service and up to 12 years of continuous service, 15 working days;
- iii. After 12 years of continuous service and up to 20 years of continuous service, 20 working days;
- iv. Over 20 years of continuous service, 25 working days.

3. An increase in vacation leave shall be granted at the beginning of the calendar year in which the years of service requirement will be met.

* * *

(c) Continuous service, for purposes of this section, shall mean employment for the same jurisdiction, or, if the requirements of *N.J.A.C. 4A:4-7.1A* are met, employment for different jurisdictions (except as provided in (d) below), without actual interruption due to resignation, retirement or removal.

* * *

2. Periods of employment before and after a suspension or leave without pay shall be considered continuous service. However, the period of time on a suspension or leave without pay, except for military leave, furlough extension leave and voluntary furlough, shall not be included in calculating years of continuous service.

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.

In the instant matter, although Grippaldi received Workers' Compensation benefits during the time at issue, pursuant to *N.J.A.C. 4A:6-1.2*, her resignation constituted a break in service. This break in service resulted in her loss of continuous service for vacation leave allotment and seniority purposes. However, if she had been placed on a leave of absence without pay, her periods of employment before and after that leave would be considered continuous service for purposes of calculating her vacation leave entitlement. *See N.J.A.C. 4A:6-1.2(c)*. Furthermore, it is observed that the Commission may authorize the retroactive placement of an employee on a leave of absence in order to restore the employee's continuous service. *See In the Matter of Dawn Maroldi* (MSB, November 1, 1995). Accordingly, the record in this matter supports relaxation of *N.J.A.C. 4A:2-6.1(c)* to allow Grippaldi to rescind her resignation and be retroactively recorded as on a leave of absence without pay. However, it is noted that Grippaldi received payment for 8.5 days of vacation leave upon her resignation. Therefore, her record should be corrected to reflect that instead of resigning, she took a leave of absence without pay, effective March 18, 2016 and then used 8.5 days of vacation leave immediately before returning to work. Specifically, Grippaldi should be recorded as taking leave without pay from March 18, 2016 to July 12, 2016. For July 12, 2016, Grippaldi's record should state that she received one-half day of leave without pay and used one-half day of vacation leave time. The remaining vacation leave should be recorded as being used on the subsequent eight working days from July 13, 2016 through July 22, 2016.

Finally, it is ordered that Grippaldi's current vacation leave balance be adjusted immediately based upon her years of continuous service as deemed

herein.³ Therefore, based on *N.J.A.C.* 4A:6-1.2(a)2ii, Grippaldi would have been entitled to 15 days of vacation leave based upon her overall seniority. However, pursuant to Civil Service law and rules, vacation leave not taken in a given year may only be carried over into the following year. Therefore, Grippaldi is only entitled to carry over the three additional vacation days for 2018. *See N.J.S.A.* 11A:6-2(f); *N.J.A.C.* 4:6-1.2(g).

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 COMMISSION ON
THE 16TH DAY OF JANUARY, 2019



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³ It is unclear from the record whether pension contributions were made for Grippaldi while she was receiving Workers' Compensation benefits. If the appointing authority and Grippaldi paid for her pension contributions while she was receiving Workers' Compensation while on the leave of absence, she would also accrue seniority during this period for purposes of calculating her vacation leave accrual. *See In the Matter of Thomas M. Jardine and Kerriem Beyah* (CSC, decided August 13, 2014).