



STATE OF NEW JERSEY

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

In the Matter of Robert Blake, Fire
Fighter (M1500T), Asbury Park

List Removal Appeal

CSC Docket No. 2019-3525

ISSUED: JUNE 28, 2019 (HS)

Robert Blake appeals the removal of his name from the eligible list for Fire Fighter (M1500T), Asbury Park on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open-competitive examination for Fire Fighter (M1500T), which had a closing date of August 31, 2015. The resulting eligible list promulgated on March 11, 2016 and expired on March 28, 2019.¹ The appellant's name was certified to the appointing authority on December 4, 2018 with a notice date of December 11, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice.

On appeal to the Civil Service Commission, the appellant maintains that he never received the certification notice. In support, the appellant submits a letter from the Mayor of Asbury Park, John B. Moor. Mayor Moor indicates that there have been multiple problems with sorting and delivering mail in Asbury Park that remain unresolved and that have led to an investigation. Mayor Moor also indicates that these problems date as far back as September 2017.²

¹ The eligible list was extended approximately one year to March 28, 2019.

² Agency records and the appellant's appeal submission reflect that he has been an Asbury Park resident since the examination closing date.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *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 name from an eligible list was in error.

The appointing authority requested the removal of the appellant's name from the eligible list for Fire Fighter (M1500T) on the basis of his failure to respond to the December 4, 2018 certification. However, the appellant has submitted a letter of support from the Mayor of Asbury Park, John B. Moor, who indicates that Asbury Park is experiencing problems with mail delivery and that the problems date as far back as September 2017, prior to the certification's issuance. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant, an Asbury Park resident since the August 2015 examination closing date, has rebutted that presumption in submitting the Mayor's letter of support. Although a sworn, notarized statement is typically required to evidence non-receipt of mail, such a statement is not necessary in this particular case in light of the Mayor's letter regarding Asbury Park's documented mail issues and the City's efforts to redress them. Thus, it is appropriate that the appellant's name be restored to the subject eligible list. Since the M1500T eligible list expired on March 28, 2019, it is appropriate to revive that list at the time of the next certification to allow the appellant to be considered for prospective appointment.

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Fire Fighter (M1500T), Asbury Park be revived in order for Robert Blake to be considered for appointment at the time of the next certification for prospective employment opportunities only.

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 26TH DAY OF JUNE, 2019



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