



STATE OF NEW JERSEY

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

In the Matter of Clerk 2 (PM2100V),
Clifton

Appointment Waiver

CSC Docket No. 2019-1845

ISSUED: MARCH 29, 2019 (HS)

The matter of whether Clifton should be granted permission not to make an appointment from the December 4, 2017 certification for Clerk 2 (PM2100V) (Title Code 03247) has been referred to the Civil Service Commission (Commission) for review.

The record reveals that the appointing authority provisionally appointed Rosemary Monge, pending promotional examination procedures, to the title of Clerk 2, effective January 20, 2016. As a result of this provisional appointment, an examination for the title was announced with a closing date of August 21, 2017. Monge, a non-veteran, and three other non-veteran applicants were admitted to the examination, which was administered as an evaluation of education and experience. The resulting eligible list of four names promulgated on November 30, 2017 and expires on November 29, 2020. On December 4, 2017, the names of all four eligibles, including Monge as the second ranked eligible, were certified (PL171449) from the eligible list with a disposition due date of March 5, 2018. On April 9, 2018, the Division of Agency Services (Agency Services) sent the appointing authority a notice indicating that it was in violation of Civil Service rules based on its failure to dispose and return the certification. On April 13, 2018, the appointing authority returned the certification, indicating that no appointments would be made. On April 17, 2018, Agency Services returned the certification to the appointing authority for proper disposition and notified it that action was to be taken to either make a regular appointment or request an appointment waiver. However, the appointing authority failed to exercise one of these options. On September 7, 2018,

Monge was separated from employment. Subsequently, Agency Services referred the matter to the Commission for enforcement.

The appointing authority was advised that it could request an appointment waiver and that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$1,114. In response, the appointing authority submitted a check for the selection costs. However, it submitted no arguments.

Agency records indicate that currently there are no individuals serving provisionally in the title of Clerk 2 with the appointing authority.

CONCLUSION

In accordance with *N.J.S.A. 11A:4-5*, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Monge. After a complete certification was issued, the appointing authority indicated that no appointment would be made and Monge was later separated from employment. Moreover, there is no one currently serving provisionally in the subject title with the appointing authority. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although valid reasons exist for not making an appointment from the subject eligible list, the appointing authority has failed to provide a sufficient basis for not being charged for the costs of the selection process that produced the subject eligible list. Moreover, the appointing authority submitted a check for the costs of the selection process. Therefore, since the appointing authority has conceded that it is responsible for those costs, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process but notes that the costs have already been remitted.

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 27TH DAY OF MARCH, 2019



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