



**STATE OF NEW JERSEY**

In the Matter of D.W., Police Officer  
(S9999U), Linden

CSC Docket No. 2020-239

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

List Removal Appeal

**ISSUED: NOVEMBER 21, 2019 (SLK)**

D.W. appeals the removal of her name from the eligible list for Police Officer (S9999U), Linden, on the basis that she resided outside of the residency scope.

The appellant took the open competitive examination for Police Officer (S9999U), achieved a passing score, and was ranked on the subsequent eligible list. In seeking her removal, the appointing authority indicated that the appellant failed to prove that she lived in Linden in violation of its ordinance, which required applicants to be residents of Linden from the August 31, 2016 closing date until the date of appointment. Specifically, the appellant's Motor Vehicle Services Address Change History indicated that she lived in Colonia before changing her address to Linden on September 5, 2018.

On appeal, the appellant asserts that she has lived in Linden since August 2014. She submits a letter from her property manager that confirms that she has lived in Linden since August 2014. Additionally, the appellant submits her account summary from her utility company that indicates that its service began in August 2014. Further, she submits her lease which indicates that her residence in Linden began in August 2014 as well as current leases that show that she continues to reside in Linden. Moreover, she argues that she is entitled to a retroactive appointment as she believes her removal from the list is unwarranted.

In response, the appointing authority submits its background report which reiterates that her address for her driver's license indicated that she did not move to Linden until September 5, 2018. Additionally, the appellant has a daughter, age 11, and a son, age 3 and the investigator contacted the Linden Board of Education which informed it that it had no record of her children attending Linden Public Schools. Thereafter, the investigator questioned the appellant and she informed the investigator that her daughter attends public school in Woodbridge and sometimes stays with the appellant's mother in Colonia. However, the appointing authority states that the appellant indicated on her application that her children reside with her in Linden. Therefore, the appointing authority concluded that the appellant was not truthful on her application.

In reply, the appellant indicates that when she was questioned about where her daughter attends schools, she responded that her daughter attends school in Woodbridge. She explains that due to her husband's and her work schedules, they are unable to fulfill various obligations for their daughter. Therefore, her parents agreed to take on the responsibility of being their daughter's caretaker. Further, at the time she completed her employment application, her daughter was living with her. Concerning her son, the appellant presents that he is below the age to attend public school, he attends private daycare, and lives with her in Linden.

## CONCLUSION

*N.J.A.C. 4A:4-2.11(e)1* provides that when an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.

*N.J.A.C. 4A:4-2.11(c)* provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;

4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

*N.J.A.C. 4A:4-2.11(h)* provides that an applicant seeking to appeal a residency determination shall have the burden of proving his or her residency.

In this matter, the evidence indicates that the appellant has continuously lived in Linden since the August 31, 2016 closing date through the present. Specifically, she has submitted leases, a statement from her property manager, and her account summary from her utility company which demonstrate that she has lived in Linden since August 2014. Further, she adequately explained why her daughter attends public school in Woodbridge. Moreover, the appointing authority has not presented any evidence or made any argument that disapproves the appellant's evidence or statements. While the appellant did not apparently timely update her address with Motor Vehicles, the other evidence provided establishes her residency. Accordingly, the appellant has met her burden of proof in this matter and the appointing authority has not shown sufficient cause for removing her name from the (S9999U) eligible list.

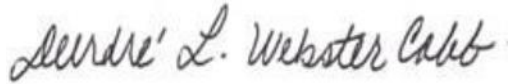
Concerning the appellant's request for a retroactive appointment, while the appellant met her burden of proof concerning her residency, such a remedy is not warranted. In this regard, individuals whose names merely appear on a list do not have a vested right to appointment. *See In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984), *Schroder v. Kiss*, 74 *N.J. Super.* 229 (App. Div. 1962). The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990).

### **ORDER**

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Police Officer (S9999U), Linden eligible list, 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 19<sup>th</sup> DAY OF NOVEMBER, 2019



Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: D.W.  
Joseph Bodek  
Kelly Glenn