



STATE OF NEW JERSEY

In the Matter of Administrative Clerk
(M0260V), Lakewood Fire District #1

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

CSC Docket No. 2021-186

Administrative Appeal

ISSUED: DECEMBER 21, 2020 (AMR)

In *In the Matter of Administrative Clerk (M0260V), Lakewood Fire District #1* (CSC, decided April 4, 2018), the Civil Service Commission (Commission) granted the request of Lakewood Fire District #1 for an appointment waiver for the August 28, 2017 certification and ordered that no selection costs would be assessed at that time since there was a possibility that the list could be utilized prior to its expiration. A copy of that decision is attached hereto and incorporated herein. However, the appointing authority did not utilize the subject eligible list and the matter of the assessment of costs is now before the Commission.

Agency records reveal that one certification was issued from the subject eligible list on August 28, 2017. However, the certification was cancelled on May 2, 2018, no appointments were made, and no additional certifications were requested. Therefore, Lakewood Fire District #1 was notified that since the eligible list was not utilized by its August 9, 2020 expiration date, the matter of the costs for the selection process in the amount of \$2,048 would be forwarded to the Commission for a determination. However, no response was received.

CONCLUSION

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

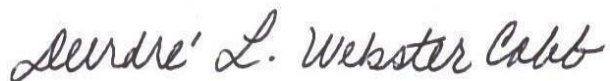
make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. The amount of \$2,048 has been determined to be the cost of the selection process for open-competitive examinations for local government positions. In the instant situation, although the appointing authority had shown a valid reason for not making an appointment from the subject eligible list, it has failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list. In this regard, the appointing authority indicated that the provisional appointee was no longer serving in the subject title. However, it explained that although it was not making an appointment at that time, it would consider utilizing the list in the future for an appointment before the expiration date of the symbol. Lakewood Fire District #1 was given the opportunity to utilize the eligible list within three years; however, agency records indicate that it failed to do so. Thus, it is appropriate that the appointing authority be assessed the costs of the selection process.

ORDER

Therefore, it is ordered that Lakewood Fire District be assessed the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

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 DECEMBER 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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and
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Attachment

c: Yehuda Beer
Division of Agency Services
Division of Appeals and Regulatory Affairs
Records Center



STATE OF NEW JERSEY

In the Matter of Administrative
Clerk (M0260V), Lakewood Fire
District #1

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

CSC Docket No. 2018-1379

Appointment Waiver

ISSUED: April 6, 2018 (AMR)

The Lakewood Fire District #1 (Lakewood) requests permission not to make an appointment from the August 28, 2017 certification for Administrative Clerk (M0260V).

The record reveals that the Lakewood provisionally appointed Yehuda Beer, pending open competitive examination procedures to the subject title, effective November 1, 2016. An examination was announced with a closing date of April 24, 2017 that resulted in a list of 17 eligibles with an expiration date of August 9, 2020. It is noted that Beer is no longer serving as an Administrative Clerk and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. However, it explained that although they are not making an appointment at this time, they may consider utilizing the list in the future for an appointment before the expiration date of the symbol.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

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 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 Yehuda Beer, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the provisional was no longer serving in the subject title. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, 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 for 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the Commission notes that the list in question will not expire until August 9, 2020. Further, the appointing authority has indicated its intention to utilize the list prior to its expiration. Thus, the utilization by this appointing authority is probable. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event it fails to utilize the list by its expiration date of August 9, 2020, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently be assessed.

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 4th DAY OF APRIL , 2018



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