



STATE OF NEW JERSEY

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

In the Matter of Theodoro Junggren,
Equipment Operator (C0774A),
Union County

Examination Appeal

CSC Docket No. 2020-1871

ISSUED: JULY 2, 2020 (HS)

Theodoro Junggren appeals the determination of the Division of Agency Services (Agency Services), which found that he did not meet the residency requirement for the open competitive examination for Equipment Operator (C0774A), Union County.

The subject examination was announced with a closing date of September 4, 2019 and was open to Union County residents only. Agency Services deemed the appellant ineligible as he had indicated on his application that he was a Middlesex County resident. The examination resulted in an eligible list of seven names that promulgated on January 9, 2020 and expires on January 8, 2023. The list was certified twice, resulting in five regular appointments and the removal of one eligible's name from the list. One eligible remains active.

In his appeal to the Civil Service Commission (Commission), postmarked January 11, 2020, the appellant highlights the following excerpts from the County of Union Employee Handbook (Revised November 28, 2018) (Employee Handbook):

All persons who are employed by the County of Union in a full-time capacity in a classified or unclassified service after November 10, 1983, prior to employment, must be and thereafter remain bona fide residents of the County of Union. Upon completion of fifteen (15) years of service with the County of Union, the residency requirement is waived.

...

A full-time employee who was permanently employed prior to November 10, 1983 is exempt from the County's residency ordinance for Civil Service Promotional Examinations and internal transfer only. Such an employee is nevertheless subject to the provisions for all Civil Service Open Competitive Examinations as announced by the New Jersey Civil Service Commission, which requires residency in Union County.

The appellant argues that based on the above excerpts, he is exempt from the residency requirement as he has been a Union County employee for over 25 years. He notes that he previously received an appointment to the title of Equipment Operator, with the same Middlesex County residency. The appellant claims that he was, however, "illegal[ly]" returned to the title of Road Repairer 2. For those reasons, the appellant maintains that he should be admitted to the subject examination.

It is noted that according to the County and Municipal Personnel System (CAMPS), the appellant received a permanent appointment to the title of Equipment Operator, effective August 13, 2018, from a promotional eligible list (PC2331V). The PC2331V promotional examination had been announced open to employees in the competitive division with an aggregate of one year of continuous permanent service as of the closing date in any competitive title who met the listed requirements. There were no residency requirements for that examination. It is further noted that effective February 16, 2019, the appellant was demoted from Equipment Operator to Road Repairer 2. CAMPS indicates that this was a voluntary appointment to a previously held title.

CONCLUSION

N.J.A.C. 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the open competitive examination announcement by the closing date. This includes being a resident of the State or specified local jurisdiction except when a different residency requirement is specified by law or provided by this agency or it appears that there are an inadequate number of qualified residents available for the title. *See also N.J.S.A.* 11A:4-3. *N.J.A.C.* 4A:4-2.11(e) states that, unless otherwise specified, residency requirements shall be met by the announced closing date for the examination. It is noted that each jurisdiction has its own residency requirement, which must be met by the closing date. The Commission does not have authority over the establishment of this requirement. Some jurisdictions only require candidates to be residents as of the closing date, while others also require that residency be maintained up to the date of appointment. *See N.J.A.C.* 4A:4-2.11(e)1. In this regard, § 2-22(A) of the Union County Administrative Code provides:

It shall be the policy of the County of Union that, except as hereinafter provided, preference in employment shall be given to residents of the County of Union. Pursuant to *N.J.S.A. 40A:9-1.3 et seq.*, all persons who shall be employed by the County of Union in a full-time capacity after November 10, 1983, the effective date of this section, in the classified or unclassified service shall, prior to employment, be and thereafter remain to be bona fide residents of the County of Union.

In this matter, the appellant was found ineligible for the subject examination as he failed to meet the residency requirement in the announcement, *i.e.*, he is not a resident of Union County. At the time of the open competitive announcement, the Commission had no basis to believe that an adequate number of qualified residents was not available in Union County. Indeed, the announcement resulted in a complete list of seven eligible candidates who met the residency requirement. Moreover, regardless of whether the appellant has received a waiver from the residency requirement for his *current* position with Union County, he does not meet the announced requirements for the subject examination. See *N.J.S.A. 11A:4-3*, *N.J.A.C. 4A:4-2.3(b)*, and *N.J.A.C. 4A:2-11(e)*. It is of no moment that a cited excerpt from the Employee Handbook does not, in *explicit* terms, state that a full-time employee who is permanently employed *after* November 10, 1983 remains subject to the residency requirement for Civil Service open competitive examinations. As discussed, Civil Service regulations concerning open competitive examinations, in conjunction with Union County's Administrative Code, are themselves clear in that regard. Neither is it of any consequence that the appellant was previously admitted to a *promotional* examination (PC2331V) for the same title as a Middlesex County resident. There were no residency requirements to be met for that examination. Thus, good cause does not exist to admit the appellant to the subject open competitive examination. To do so would not be fair to other non-Union County residents who did not apply since they, like the appellant, were not eligible at that time. A thorough review of all material presented indicates that Agency Services' determination that the appellant did not meet the announced requirements for eligibility by the examination closing date is amply supported by the record, and the appellant provides no basis to disturb that determination.


The Commission adds the following comments. The appellant claims that he was "illegal[ly]" returned to the title of Road Repairer 2. Agency records do reflect that the appellant was demoted from Equipment Operator to Road Repairer 2. However, that movement was effective February 16, 2019. As this appeal was not filed until January 11, 2020, any challenge to the demotion is untimely. See *N.J.A.C. 4A:2-1.1(b)* (providing that unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed). Regardless, agency records indicate that the demotion was voluntary, and the appellant offers no evidence to suggest it was not.

ORDER

Therefore, it is ordered that this appeal be denied.

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 1ST DAY OF JULY, 2020



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