

cel B-11



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Earl Cain, Police
Sergeant, Freehold Township

Administrative Appeal

CSC Docket No. 2015-691

ISSUED: **OCT 01 2014** (HS)

Freehold Township requests that Earl Cain be provided with a retroactive date of permanent appointment as a Police Sergeant.

By way of background, Cain appeared on the eligible list for the subject title (PM2586J), which promulgated on March 7, 2008 and expired on March 6, 2012. At the appointing authority's request, a certification of that list containing five names issued on March 10, 2010. The only individual appointed from that certification, Scot Hall, was listed in the first position and was appointed on March 23, 2010. Cain was in the second position on the certification and reachable. No further certifications issued after the March 10, 2010 certification. Subsequently, the appointing authority promoted Cain to Police Sergeant effective December 22, 2010.

The appointing authority requests that Cain be permanently appointed with a retroactive date of appointment. It states that, due to an administrative oversight, it did not request a certification to coincide with its intention to promote Cain effective December 22, 2010. It argues that Cain would have been listed in the first position on such a certification. In support, the appointing authority submits a Township Personnel Order, dated December 22, 2010 and signed by the previous Township Administrator, through which it effected Cain's promotion to Police Sergeant. The appointing authority also submits the minutes for the December 21, 2010 meeting of the Township Committee, where Cain was sworn in by the Township Clerk and recognized by the Township Committee to be a Police Sergeant.

It maintains that Cain has been "unquestionably" performing the duties of a Police Sergeant since December 22, 2010.

The Division of Classification and Personnel Management supports the appointing authority's request.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C. 4A:4-3.4* provide that an eligible list may be revived in order to implement a court order or decision of the Civil Service Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. Additionally, *N.J.A.C. 4A:4-1.10(c)* states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause.

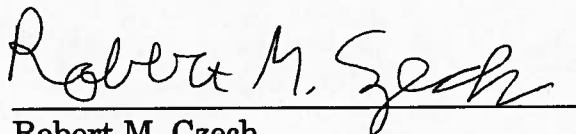
In the instant matter, the record establishes that the appointing authority intended to promote Cain effective December 22, 2010, as evidenced by the actions taken at the December 21, 2010 meeting of the Township Committee and the December 22, 2010 Township Personnel Order. However, due to an administrative oversight, the appointing authority did not request a certification to coincide with the planned appointment date. Nevertheless, had the appointing authority requested a certification at that time, Cain would have been listed in the first position and reachable for appointment. Under these circumstances, good cause has been presented to revive the Police Sergeant (PM2586J), Freehold Township, eligible list to effectuate Cain's regular appointment. Further, since the appointing authority verifies that Cain has successfully performed the duties of a Police Sergeant, Cain should be considered as having successfully completed his working test period. *See e.g., In the Matter of Winfred L. Christy, Police Officer (M1847M), Borough of Lindenwold* (MSB, decided January 15, 2003). Accordingly, Cain's appointment is to be considered permanent. Additionally, good cause exists to provide Cain with a retroactive date of appointment effective December 22, 2010, when the appointing authority issued its Township Personnel Order promoting Cain.

ORDER

Therefore, it is ordered that this request be granted. It is further ordered that the Police Sergeant (PM2586J), Freehold Township, eligible list be revived in order to record the permanent appointment of Earl Cain. Moreover, it is ordered that he be given a retroactive date of permanent appointment effective December 22, 2010.

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 OCTOBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and
Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
Trenton, NJ 08625-0312

c. Earl Cain
Peter Valesi
Kenneth Connolly
Dan Hill
Joseph Gambino

