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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Lavie Linton,
Police Officer (Special), Newark

CSC Docket No. 2014-1964

List Removal Appeal

ISSUED: **OCT 06 2014** (WR)

Lavie Linton appeals the attached decision of the Division of Classification and Personnel Management (CPM), which found that the appointing authority had presented a sufficient basis to remove her name from the special reemployment list for Police Officer, Newark, on the basis of having an unsatisfactory background report.

The appellant, a nonveteran, appeared on the Police Officer, Newark, special reemployment eligible list and was certified to the appointing authority on August 1, 2012.¹ In disposing of the certification, the appointing authority requested the removal of the appellant's name due to an unsatisfactory background report. It indicated that upon investigation of the appellant's background, adverse items were discovered which precluded her from appointment as a Police Officer. In this regard, it was found that, while serving as a Police Officer with the appointing authority, the appellant was suspended for 10 days for insubordination in February 2010 after she shrugged her shoulders, rolled her eyes, and made comments under her breath in a disrespectful manner towards a superior officer during a traffic stop. Additionally, the appellant was suspended for four months for violating departmental rules and regulations in March 2010. Specifically, the appellant illegally tinted the windows of her personal car, associated with a criminal by dating a convicted felon, and failed to notify the appointing authority that she had

¹ Agency records indicate that the appellant was employed with the appointing authority as a Police Officer from December 26, 2007 to November 30, 2010.

moved residences from Newark to East Orange, New Jersey.² The appellant appealed to CPM, which determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligibility list.

On appeal to the Civil Service Commission (Commission), the appellant asserts that after she completed her 10 day and four months suspensions, she was declared fit for duty and was reinstated to her position. Thus, as she already has served the discipline for her improper conduct, she argues that she should not be again punished by being removed from the subject special reemployment eligible list for that same conduct.

In response, the appointing authority, represented by Alison Brown Jones, Assistant Corporation Counsel, contends that the appellant's disciplinary record precludes her from employment. It notes the appellant's questionable conduct occurred while she was employed as a Police Officer, which raises doubts of her fitness to conform to the high standards of conduct required of Police Officers. In support of its appeal, the appointing authority submits the two Final Notices of Disciplinary Action issued to the appellant.

CONCLUSION

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C. 4A:4-4.7(d)*, provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error. *N.J.A.C. 4A:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)7*, allows the Commission to remove an individual from an eligible list who has a prior employment history which relates adversely to the position sought.

In the instant matter, the record reveals that the appellant served a 10 day suspension for insubordination and a four month suspension for violating departmental rules and regulations in 2010. While the appellant argues she should not be punished twice for the same actions, eligibles on a special reemployment eligible list are subject to an updated background check before appointment. *See In the Matter of Douglas (Dragoljub) Ilic, Police Officer (Special), City of Paterson*, (CSC, decided October 2, 2013), *aff'd on reconsideration* (CSC, decided July 16, 2014). The appointing authority contends that the appellant's disciplinary record precludes her from employment as a Police Officer. The Commission agrees. The appellant was suspended for four months based on her association with a criminal element by dating a convicted felon, illegally tinting the windows of her car, and

² The appellant was also charged with allowing her boyfriend to operate her vehicle while his driver's license was suspended, failing to take police action or report a crime after she witnessed her boyfriend and her husband engage in a physical altercation, and failing to report that her boyfriend had assaulted her daughter in that altercation. These charges, however, were dismissed at her departmental hearing.

failing to notify the appointing authority that she had moved. Therefore, the appellant's four month suspension, which notably occurred just prior to her layoff, warrants her removal from the special reemployment eligible list. *See In the Matter of Eric DeBoskey* (CSC, decided February 12, 2014). *See also, In the Matter of Michael Ngo* (CSC, decided July 30, 2014)(appellant who resigned from a non-Civil Service police department in face of discipline properly removed from special reemployment eligible list for Police Officer).

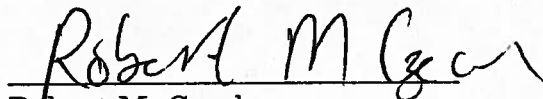
The Commission has long recognized that a Police Officer is a law enforcement employee who must enforce and promote adherence to the law. Police Officers hold highly visible and sensitive positions within the community and that the standard for an applicant includes good character and an image of the utmost confidence and trust. It must also be recognized that a Police Officer is a special kind of employee. Her primary duty is to enforce and uphold the law. She carries a service firearm on her person and is constantly called upon to exercise tact, restraint and good judgment in her relationship with the public. She represents law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also, In re Phillips*, 117 N.J. 567 (1990). The public expects Police Officers to present a personal background that exhibits respect for the law and rules. The appellant's background, which includes major discipline, does not exhibit respect for the law and rules. Accordingly, based on the foregoing, there is a sufficient basis in the record to remove her name from the Police Officer, Newark special reemployment eligible list.

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 OCTOBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Lavie Linton
Michael Greene
Alison Brown Jones, Assistant Corporation Counsel
Kenneth Connolly