



**STATE OF NEW JERSEY**

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

In the Matter of Jesus  
Mendez-Mendez, Department  
of Military and Veterans  
Affairs

**Administrative Appeal**

CSC Docket No. 2015-525

**ISSUED: OCT 27 2014 (CSM)**

Jesus Mendez-Mendez, a former Human Services Technician with the Department of Military and Veterans Affairs, represented by Nancy Mahony, Esq., requests reinstatement of his appeal that was administratively dismissed due to lack of payment of the required appeals processing fee.

By way of background, in a Final Notice of Disciplinary Action (FNDA) served on March 15, 2014, the appellant was removed effective January 16, 2014. The appellant timely appealed the matter of his removal to the Civil Service Commission (Commission) and submitted a personal check dated March 28, 2014 in the amount of \$20 to cover the cost of the required appeal processing fee. Accordingly, the appellant was granted a hearing on April 11, 2014 and the matter was transmitted to the Office of Administrative Law (OAL) as a contested case. Thereafter, the bank on which the check was drawn returned it as unpaid since the bank was unable to locate an active account for the check. As such, staff of the Commission's Division of Appeals and Regulatory Affairs (DARA) contacted the appellant via letter and e-mail dated June 23, 2014, advising him that his check was returned due to the bank being unable to locate his account, and requested payment in the form of a money order to cover the cost of the appeal processing fee. The letter and e-mail specifically indicated that payment needed to be made within five days of receipt of the June 23, 2014 letter and e-mail, and, if payment was not received, the appellant's appeal would not be processed. As of July 10, 2014, the required appeal processing fee had not been remitted. Therefore, DARA staff contacted the appellant's union representative by phone on July 10, 2014, apprised her of the situation, and was informed that the union would try to reach the appellant.

Although the issue of non-payment of the appellant's check was pending at the Commission, since the matter had already been transmitted for a hearing, the OAL continued with its process and advised the parties that a hearing was scheduled for July 30, 2014. As of July 18, 2014, the appeal fee had not been paid after DARA staff contacted the appellant's union representative on July 10, 2014 requesting assistance. Therefore, on July 18, 2014, DARA staff requested that OAL return the appellant's file to the Commission due to lack of payment of the required appeal processing fee and the appellant was advised by letter dated July 21, 2014 that his appeal was not going to be processed. In response, the appellant contacted this agency on July 24, 2014 and faxed a copy of a money order of the same date and requested that he be permitted to continue with the hearing process. However, since the OAL had returned his file to the Commission, the appellant was advised that he needed to petition the Commission so that it could determine on the written record if he should be permitted to continue with the appeal process.

In his petition to the Commission, the appellant provides a certification indicating that the first time he ever saw the letters from DARA staff dated June 23, 2014 and July 21, 2014, was on July 23, 2014. In this regard, he states that he assumed that his \$20 check was valid, but when he went to the bank about 15 days after issuing it, the bank informed him that it had closed the account because he had not used it for a long time. Further, the appellant states that he lives in Apartment #1 in his complex, but there is also Apartment #1A in the complex. The appellant explains that from time to time, the post office mistakenly delivers his mail to Apartment #1A and he suspects that the two letters issued by DARA were delivered to the wrong address. Regarding the e-mail sent by DARA staff on June 23, 2014, the appellant states that the e-mail was sent to his old address and at that time he was using a new e-mail address. Nevertheless, once he was advised of the issue of non-payment, he purchased a money order and immediately submitted it to the Commission. Under these circumstances, the appellant requests that his appeal be reinstated.

In response, the appointing authority, represented by Christopher J. Hamner, Deputy Attorney General, presents that despite learning approximately two weeks after mailing his check to the Commission that it had no value, he did nothing to remedy the situation at that time. In this regard, the appointing authority notes that the appellant did not contact the Commission, nor did he immediately remit a valid check or money order. With respect to his assertion that the correspondence from DARA staff was not delivered by the postal service, the appointing authority emphasizes that the appellant did not need any such notice to learn the status of his appeal, as he had already learned from his bank that his fee had not been sent to the Commission. Therefore, the appointing authority maintains that the appellant has not demonstrated any good cause which would warrant transmitting his case for a hearing.

## CONCLUSION

*N.J.A.C.* 4A:2-1.8(d) provides, in pertinent part, that appeals received without a fee shall not be processed unless the appellant submits, within the time required by written notice from the Commission, the required fee and fees received after the due date shall not be accepted unless good cause is shown by the appellant.

In the present matter, the appellant has not demonstrated good cause to reinstate his appeal that was administratively dismissed due to lack of payment of the required appeals processing fee. As noted by the appointing authority, in his certification, the appellant indicated that he assumed his \$20 check was valid but went to his bank approximately two weeks later and learned that the bank had closed his account because he had not used it in a long time. The appellant's check was dated March 29, 2014. Therefore, the appellant is essentially stating that he was aware that his account from which he issued the check had been closed on or about April 14, 2014. Despite being aware of this information, the appellant took no action to ensure that the check he had issued to the Commission would be honored or to issue a replacement check to cover his appeal processing fee.

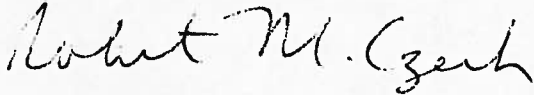
Moreover, while the appellant claims that his mail is sometimes inadvertently delivered to another apartment and he provides a certification attesting to this, he also certified that he was aware in early April 2014 that his checking account had been closed. The appellant had almost two months to rectify the matter of his payment of the processing fee to the Commission *before* DARA staff issued the June 23, 2014 correspondence providing him the opportunity submit the fee. Additionally, while he claims that he no longer uses the e-mail address to which the notice was sent, a review of the record indicates that the e-mail address utilized was the one the appellant indicated should be used to contact him on his major disciplinary appeal form. There is nothing in the record indicating that the appellant updated his e-mail contact information with either the Commission or OAL during the pendency of this matter. Further, the record does not indicate that the regular mail or e-mail were returned as undeliverable. Finally, DARA staff went to the additional effort of contacting the appellant's union representative for assistance in resolving this matter. However, despite this effort in early July 2014, the appellant did not make contact with the Commission to resolve this matter until after he was notified that his file had been returned by the OAL and that his hearing had been cancelled due to his failure to pay the required processing fee. Under these circumstances, there is no basis on which to reinstate the appellant's appeal.

## ORDER

Therefore, it is ordered that this request 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 22<sup>ND</sup> DAY OF OCTOBER, 2014



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