

B-16



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ralph Moschella, Jr.,
License Inspector (M0180P),
Atlantic City

CSC Docket No. 2014-1891

List Removal

ISSUED: OCT 24 2014 (DASV)

Ralph Moschella, Jr., appeals the attached decision of the Division of Classification and Personnel Management (CPM), which upheld the removal of his name from the eligible list for License Inspector (M0180P), Atlantic City, for failure to complete preemployment processing.

The appellant, a veteran, appeared as the number one ranked eligible on the License Inspector (M0180P), Atlantic City, eligible list, which promulgated on June 21, 2012 and expires on June 20, 2015. On March 28, 2013, the eligible list was certified to the appointing authority. In disposing of the certification, the appointing authority requested the removal of the appellant's name for failure to complete preemployment processing. It is noted that three eligibles, who were tied in the second rank and listed in the third through fifth positions on the certification, were appointed effective May 29, 2013. Specifically, the appointing authority indicated that a letter, dated April 26, 2013, was sent to the appellant informing him of a part-time position and requesting that he contact the appointing authority to schedule an interview if he were interested. The appellant contacted the appointing authority and the interview was scheduled for April 30, 2013. On that day, the appellant called to reschedule. The new date for his interview was May 6, 2013.¹ The appointing authority asserted that the appellant did not attend the rescheduled interview nor did he notify the office of his inability to attend. The appointing authority attempted to contact the appellant, but the appellant did not

¹ The record is unclear as to how the appellant was advised of the May 6, 2013 date.

provide his telephone number nor was it able to locate his number. Additionally, it sent the appellant a letter, dated May 6, 2013, by certified and regular mail, requesting that he call the office to reschedule his appointment in order for him to be interviewed by May 10, 2013. The certified mail was returned as "unclaimed" on June 11, 2013, but the letter sent by regular mail was not returned. Therefore, the appointing authority requested that the appellant's name be removed from the list. The appellant appealed to CPM, asserting that he missed his initial interview because of illness and was told that he would be notified of a new interview date. However, he only received the notice of his removal. He emphasized that he is a Vietnam war veteran and ranked number one on the eligible list. Upon review, CPM found that the appointing authority presented a sufficient basis to remove the appellant's name.

On appeal to the Civil Service Commission (Commission), the appellant reiterates that he was "given the impression that [he] would be rescheduled" and given a new date. However, the next notification he received was the notice of removal. The appellant contends that "something does not seem right" and "illness should not be a reason to be eliminated from consideration." It is noted that the appellant did not submit any proof of his illness.

In response, the appointing authority contends that it sent the appellant the May 6, 2013 letter rescheduling his interview. It notes that although the certified letter was returned, the post office made three attempts to deliver it. Moreover, the appointing authority emphasizes that the regular mail was not returned and the appellant "must have received his regular letter," but made no attempt to contact the appointing authority. It submits a copy of the certified mailing, which indicates the appellant's current address. Under these circumstances, the appointing authority requests that the appellant's removal from the subject eligible list be upheld.

It is noted that since the May 6, 2013 letter sent by regular mail was not returned, the Division of Appeals and Regulatory Affairs requested that the appellant submit a sworn statement that he did not receive this notice. However, the appellant did not further respond.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. *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.

It is initially noted that the appointing authority has the authority and ability to require potential new hires to undergo preemployment processing to ensure that the candidate is qualified for appointment. Such preemployment processing may include any and all conditions necessary for an appointing authority to assess a candidate's qualifications. Further, this information is important as it serves the function of informing the appointing authority as to any significant differences between candidates which may assist it in the selection process. *See In the Matter of Bruce C. Cooke* (MSB, decided May 8, 2001); *In the Matter of James Smith* (MSB, decided April 24, 2001).

In the instant matter, the appointing authority requested that the appellant's name be removed from the subject eligible list on the basis that he did not attend a rescheduled interview. Although the record indicates that the certified mail was returned to the appointing authority, the letter sent by regular mail was not. In this regard, there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). There is no indication that the May 6, 2013 letter sent to the appellant by regular mail had an incorrect address. The certified mail copy shows the current address of the appellant. Although the appellant contends that he received no notice after he had contacted the appointing authority on April 30, 2013, he does not submit a sworn statement that he did not receive the May 6, 2013 letter nor does he challenge the appointing authority's response that the letter was not returned. In addition, the appellant has not submitted any proof of his illness which required that he reschedule the interview in the first instance. Nonetheless, the appointing authority diligently attempted to contact the appellant after he failed to appear for the rescheduled interview on May 6, 2013. Accordingly, under these circumstances, the appellant's failure to complete preemployment processing constitutes sufficient cause to remove his name from the eligible list for License Inspector (M0180P), Atlantic City, and he has failed to meet his burden of proof in this matter.

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 22ND DAY OF OCTOBER, 2014

Robert M. Czech

Robert M. Czech

Chairperson

Civil Service Commission

Inquiries

and

Correspondence

Henry Maurer

Director

Division of Appeals

and Regulatory Affairs

Civil Service Commission

Written Record Appeals Unit

P.O. Box 312

Trenton, New Jersey 08625-0312

Attachment

c: Ralph Moschella, Jr.
Doreen Tucker
Kenneth Connolly



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

November 22, 2013

Mr. Ralph V. Moschella Jr.

Title: License Inspector
Symbol: M0180P
Jurisdiction: Atlantic City
Certification Number: OL130421
Certification Date: 3/28/13

Initial Determination: Removal – Failed to Appear for a Scheduled Interview

This is in response to your correspondence contesting the removal of your name from the referenced eligible list.

The Appointing Authority requested removal of your name in accordance with N.J.A.C. 4A: 4-4.7(a) 11, which permits the removal of a candidate's name from the eligible list, for failure to appear for a scheduled interview.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name has been sustained, and your appeal is denied.

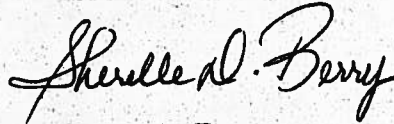
Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Ralph V Moschella Jr.
Page 2

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Director,



Sherelle D. Berry
Human Resource Consultant 2

c: Appointing Authority

SDB