

B-17



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of John Denvir and
Peter Coughlin, Fire Captain
(PM5198N) and Deputy Fire Chief
(PM1321P), Township of South
Orange Village

Administrative Appeal

CSC Docket Nos. 2015-996
2015-997

ISSUED: NOV 20 2014

(RE)

The Division of Classification and Personnel Management (CPM), on behalf of the Township of South Orange Village (Township), requests that John Denvir be provided an appointment as Fire Captain, and that Peter Coughlin be provided a retroactive appointment as Deputy Fire Chief, effective December 1, 2013.

By way of background, on March 13 2012, CPM acknowledged the Township's reorganization of the Fire Department titles utilized. The title of Fire Lieutenant was eliminated, making the Fire Captain title the first-level supervisor. As the Township was in the test cycle for Fire Lieutenant, CPM determined that the resultant list from that cycle would be issued as Fire Lieutenant but certified as appropriate to fill future vacancies at the Fire Captain level. Subsequently, the eligible list for Fire Lieutenant (PM5198N) promulgated on December 20, 2012 with an expiration date of December 19, 2015. On July 29, 2013, the sole certification (PL130890) was issued from this list, and Peter Scott was the first-ranked eligible. The Township returned the certification indicating an appointment for Mr. Scott and an appointment date of May 22, 2013. This was an improper disposition of the certification as it provided for an appointment date prior to the certification, and CPM returned the certification to the appointing authority pending resolution of this matter before the Commission. In *In the Matter of Peter Scott, Fire Captain (PM5198N), Township of South Orange Village* (CSC, decided May 21, 2014), the Commission recognized the Township's administrative error, and found good cause to allow Mr. Scott to have a May 31, 2013 retroactive appointment. CPM explains that due to the pending status of that certification, the Township was unable to

request the certification to record the appointment of John Denvir, the next eligible candidate on the list, on December 1, 2013.

Additionally, the examination for Deputy Fire Chief (PM1321P), Township of South Orange Village was promulgated on August 1, 2013, and a certification (PL140913) was issued on August 4, 2014. Nevertheless, The Township had passed a resolution on November 25, 2013 to appoint Mr. Coughlin to Deputy Fire Chief on December 1, 2013. The Township did not request a certification in late 2013 in order to effectuate the appointment of Peter Coughlin, and it acknowledges an administrative error in this regard. The Township provides resolutions for these appointments, and states that they were necessitated by vacancies due to retirements. It indicates that each has been serving in the capacity of their titles since December 1, 2013. CPM supports this request.

CONCLUSION

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. Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an administrative error, he or she received a later appointment date. In this case, Mr. Denvir has been performing the duties of Fire Captain since December 1, 2013. The Township requested a certification of the eligible list (PM5198N) on September 24, 2014, as no certification could be issued when Mr. Denvir was appointed due to the pending *Scott* matter. Further, Mr. Coughlin has been performing the duties of Deputy Fire Chief since December 1, 2013 as well. A certification for Deputy Fire Chief (PL140913) had been issued August 4, 2014, eight months after Mr. Coughlin commenced performing the duties of Deputy Fire Chief, and it has not been disposed. Under these circumstances, good cause has been presented to use the certification for Fire Lieutenant (PL130890), with a retroactive issue date of May 31, 2013, to allow Mr. Denvir to be appointed, effective December 1, 2013. Good cause has also been presented to retroactively issue the certification for Deputy Fire Chief (PL140913), to allow Mr. Coughlin to be appointed, effective December 1, 2013.

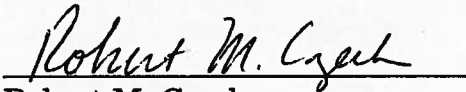
One final note is warranted. The Township has again made an appointment prior to a certification and acknowledges an administrative error. The Township has not provided any reasons why it did not request certifications for Peter Scott to Fire Captain in the prior matter, or for Peter Coughlin to Deputy Fire Chief in the current matter, prior to their anticipated respective appointments in May 2013 and December 2013. For future certifications, the Township **must** request a certification prior to approving the appointment by resolution.

ORDER

Therefore, it is ordered that John Denvir receive an appointment from the PL130890 certification of May 31, 2013, and the issuance of the certification PL140913 be recorded as December 1, 2013, to allow for the December 1, 2013 retroactive appointment of Peter Coughlin.

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 19th DAY OF NOVEMBER, 2014



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