B.20



## STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jeremy Cannon, Fire Captain (PM1135S), Orange

CSC Docket No. 2015-1056

**Examination Appeal** 

ISSUED: NOV 2 0 2014

(RE)

Jeremy Cannon appeals the decision of the Division of Selection Services (DSS) which found that he was not employed in the announced title scope for the promotional examination for Fire Captain (PM1135S), Orange.

:

The subject examination had a closing date of September 30, 2014, and an online application deadline date of August 21, 2014. The examination was open to employees in the competitive division who possessed an aggregate of three years of continuous permanent service in the title Fire Fighter as of the closing date. The appellant submitted an application with no experience listed, and he was found to not be employed in the announced title scope. Nonetheless, 17 candidates have been admitted to the examination which is scheduled for November 15, 2014.

On appeal, Mr. Cannon states that his employment began in the City of Orange in 2011 as a full-time Fire Fighter, and he continues to work there. He states there must have been a paperwork error and he enclosed a copy of his pay stub for the period ending October 3, 2014. In a supplement to his appeal, the appellant explains that he was hired off a Rice Bill list on October 31, 2011. Prior to that, he was a full-time Fire Fighter with Fire District #2, Old Bridge Township, from March 1, 2002 through December 31, 2010, and had been laid off due to municipal economic conditions. Thus, he argues that he has an additional 8 years, 10 months of firefighting experience with Old Bridge Township. He also explains that he has been a part-time Fire Instructor with the Middlesex County Fire Academy from October 1, 2006 forward. He requests that the Civil Service Commission recognize his experience as a Fire Instructor and admit him to the

examination. He provides copies of fire-related certifications, a letter to his Fire Chief explaining his experience, proof of employment with Old Bridge Township, a paycheck certification and paycheck information regarding his Fire Instructor position, a pensions benefits statement, an identification badge, and a form completed by the appointing authority in confirmation of his hire and intergovernmental transfer.

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. N.J.A.C. 4A:4-2.6(b) states that, in local service, applicants for promotion from entry level law enforcement or firefighter titles shall have three years of continuous permanent service in a title to which the examination is open, except as otherwise provided by law.

## CONCLUSION

The appellant was denied admittance to the subject examination since there was no official record of his employment. On appeal, Mr. Cannon stated that he began his employment the City of Orange on August 30, 2011, and has prior firefighting experience, as well as experience as a Fire Instructor. His record has since been changed to reflect his hire as a Fire Fighter in Orange on October 31, 2011.

Nevertheless, an applicant for a promotional examination must satisfy all eligibility requirements, including the criteria of possession of an aggregate of three years of continuous permanent service immediately preceding the closing date in a title or titles to which the examination is open. These examinations were not announced with requirements for education and experience, but were only open to candidates who possessed three years of continuous permanent service who were serving in the listed title of Fire Fighter. Given the correction to his employment record, the appellant still lacks 30 days of time-in-grade as a Fire Fighter as of the September 30, 2014 closing date. The examination was not open to Fire Instructor, and any accrued experience in this title cannot be considered to be qualifying. In addition, experience gained prior to a new hiring, even when individuals are hired from a Rice Bill list, is not considered simply in order to make a candidate eligible. See Makowitz v. Civil Service Department, 177 N.J. Super 61 (App. Div. 1980) certif. den. 87 N.J. 326. In addition, N.J.A.C. 4A:4-3.10(e)2 states that, for persons appointed from the Rice Bill list, seniority accrues as of the effective date of the new appointment. More extraordinary circumstances may warrant relaxation of the time-in-grade requirement, such as when a Department would be devoid of any supervisory-level officers. In the present matter, 17 candidates have been admitted to the examination, which makes this a competitive situation, and it is unlikely that the eligible list will be exhausted by the expiration date. As such, extraordinary conditions do not exist which would warrant relaxing the provisions of N.J.A.C.

4A:4-2.6(b). The appellant lacks the required amount of time-in-grade as a Fire Fighter with Orange and is ineligible for the subject examination.

A thorough review of all material presented indicates that the decision of DSS, that the appellant did not meet the announced requirements for eligibility by the examination closing date, is amply supported by the record and the appellant provides no basis to disturb this decision. Thus, the appellant has failed to support 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 19<sup>th</sup> DAY OF NOVEMBER, 2014

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

c: Jeremy Cannon
Dwayne Warren
Dan Hill
Joseph Gambino