

B-14



**STATE OF NEW JERSEY**

In the Matter of Office Supervisor  
(M0466R), New Brunswick

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

CSC Docket No. 2014-3179

**Appointment Waiver Request**

**ISSUED: NOV 10 2014 (CAG)**

New Brunswick requests permission not to make an appointment from the September 24, 2013 certification for Office Supervisor (M0466R), New Brunswick.

The record reveals that New Brunswick provisionally appointed Scott Banner, Sr., pending open-competitive examination procedures, to the title of Office Supervisor effective March 12, 2012. Thereafter, an examination (M0466R) was announced with a closing date of May 21, 2013. Banner applied for the examination and was determined ineligible. However, seven applicants were admitted to the qualifying unassembled examination that resulted in a list of five eligibles that expires on September 4, 2016. On September 24, 2013, the names of seven eligibles were certified (OL131259) from the subject list and one eligible was certified from a previous list for the title of Office Supervisor (M0777P), New Brunswick, for a total of eight names on the subject certification. New Brunswick took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. New Brunswick returned the certification on January 17, 2014 and took no action. New Brunswick was advised by the Division of Classification and Personnel Management (CPM) that it could request an appointment waiver. In response, New Brunswick returned an amended certification and requested an appointment waiver. It indicated that Banner's title was changed to Assistant Supervisor of Motor Pool and it requested cancellation of the subject certification.

New Brunswick supplemented its request and reiterated its previous arguments and explained that it originally returned the certification without making an appointment due to a residency issue. It also explained that CPM denied this request since the provisional employee was not a city resident. In addition, it explained that, in the meantime, it re-evaluated the duties assigned to the provisional employee's position and determined that the most appropriate classification would be Assistant Supervisor of Motor Pool. Further, it explained that, since it does not have the need for the title of Office Supervisor, the certification be cancelled.

New Brunswick's request for an appointment waiver was acknowledged and it was advised that, if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received.

Personnel records reveal that Bannier was provisionally appointed to the title of Assistant Supervisor of Motor Pool effective May 14, 2014.

### CONCLUSION

In accordance with *N.J.S.A. 11A:4-5*, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Bannier. After a complete certification was issued, New Brunswick requested an appointment waiver, stating that Bannier's position was re-evaluated and his title was changed to Assistant Supervisor of Motor Pool. Therefore, it does not have the need for the title of Office Supervisor. In addition, Personnel records reveal that Bannier was provisionally appointed to the title of Assistant Supervisor of Motor Pool effective May 14, 2014. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these

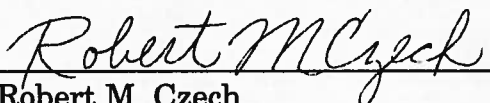
examinations in hopes of being considered for a permanent appointment. Accordingly, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

### ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that New Brunswick be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

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 6<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: Thomas A. Loughlin  
Kenneth Connolly  
Joseph Gambino  
Beth Wood