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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Andrew S. Beno,
Road Repair Supervisor (PC0602S),
Union County

CSC Docket No. 2015-726

Examination Appeal

ISSUED: DEC 05 2014 (DASV)

Andrew S. Beno appeals the determination of the Division of Selection Services that that he did not meet the experience requirement for the promotional examination for Road Repair Supervisor (PC0602S), Union County.

The subject examination was announced with a closing date of May 21, 2014 and open to employees who possessed an aggregate of one year of continuous permanent service as of the closing date in any competitive title and four years of experience in the construction, repair, and maintenance of roads or streets which may have included work involving installation and maintenance of traffic lines and traffic signs, one year of which shall have been in a lead worker capacity. It is noted that two applicants, including the appellant, filed for the examination. However, they were found ineligible. Consequently, the examination was cancelled due to a lack of qualified applicants.

On his application, the appellant indicated that he has been serving provisionally pending promotional examination procedures in the subject title since January 2014. He also listed his prior positions with Union County as follows: Equipment Operator from July 2002 to January 2014; Road Repairer 1 from July 2001 to July 2002; and Laborer 1 from March 2001 to July 2001. Upon review, the Division of Selection Services found that the appellant met the general experience requirement. However, it only credited him with five months of experience in his capacity as a provisional Road Repair Supervisor towards the lead worker experience requirement. It noted that the appellant listed lead worker duties as an Equipment Operator, but such duties, although applicable, were considered out-of-

title work and could not be credited to him. Therefore, the Division of Selection Services determined that the appellant was ineligible for the subject examination.

On appeal to the Civil Service Commission (Commission), the appellant maintains that as an Equipment Operator, he was regularly assigned supervisory and lead worker duties. Further, he states that he was previously deemed eligible for a prior promotional examination for Supervisor, Roads (PC0593N), Union County and appears on the resulting eligible list which he indicates did not expire until November 2014. It is noted that this title was consolidated in 2012 and re-named Road Repair Supervisor.

CONCLUSION

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. Further, *N.J.A.C.* 4A:1-1.2(c) states that the Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, it is noted that eligibility is determined on the basis of each discrete announcement. The fact that the appellant may have been admitted in error to a prior examination for the same title does not provide him with an entitlement to eligibility in the instant matter. No vested or other rights are accorded by an administrative error. See *Cipriano v. Department of Civil Service*, 151 *N.J. Super.* 86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 *N.J.* 309 (1987); *HIP of New Jersey v. New Jersey Department of Banking and Insurance*, 309 *N.J. Super.* 538 (App. Div. 1998). It is further noted that, upon the subject title's consolidation and re-naming in 2012, the Supervisor, Roads (PC0593N), Union County eligible list was declared expired.

Upon its review, the Division of Selection Services found that the appellant did not meet the required lead worker experience. It noted that his duties as an Equipment Operator would provide him with applicable, but out-of-title experience. In this regard, *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy eligibility requirements or for credit in the examination process. However, the Commission does not need to determine whether the appellant's prior work constitutes applicable out-of-title experience in this matter. Rather, the appellant now possesses the required year of lead worker experience since he remains serving provisionally in the subject title.¹ He also meets the general experience

¹ A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves. Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other

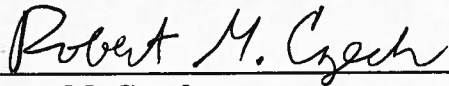
requirement. Based on the foregoing and given that the examination was cancelled, good cause exists to relax the provisions of *N.J.A.C. 4A:4-2.6(a)* and accept the appellant's lead worker experience beyond the closing date, for eligibility purposes only, and admit him to the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted, the examination cancellation be rescinded, and Andrew S. Beno's application be processed, for prospective employment opportunities only.

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 3RD DAY OF DECEMBER, 2014



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employees in an advisory position. Such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Being a lead worker does not mean that the work is performed by only one person, but involves mentoring others in work of the title series. See *In the Matter of Henry Li* (CSC, decided March 26, 2014).

