

B-11



STATE OF NEW JERSEY

In the Matter of Dennis Bollhardt,
Maintenance Repairer (Special
Reemployment list), Bergen County

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-419

List Removal Appeal

ISSUED: AUG 01 2014 (JET)

Dennis Bollhardt appeals the attached decision of the Division of Classification and Personnel Management (CPM), which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the Maintenance Repairer, Bergen County, special reemployment list on the basis of failure to complete pre-employment processing.

The appellant's name appeared on the January 23, 2013 certification (OL130119) from the special reemployment list for Maintenance Repairer, Bergen County. By way of a letter dated February 1, 2013, the appointing authority notified the appellant to submit an employment application for the subject position by no later than February 11, 2013. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list based on his failure to provide a completed employment application. On appeal to CPM, the appellant asserted, among other things, that his name should be restored to the subject eligible list. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

On appeal, the appellant maintains that he was not provided with the opportunity to complete pre-employment processing since he did not receive the appointing authority's February 1, 2013 letter instructing him to submit the completed employment application by February 11, 2013. In support of his contentions, the appellant submits an unsworn notarized letter, dated September 10, 2013, indicating that he did not receive the February 1, 2013 letter.

In response, the appointing authority maintains that the appellant did not provide a completed employment application in response to its February 1, 2013 letter.

It is noted that a letter was sent by staff of the Division of Appeals and Regulatory Affairs (DARA) to the appellant advising him that in order to show that a notice was not received, he must submit an affidavit or notarized statement *under oath* that the notice was not received. In response, the appellant submitted another unsworn notarized letter dated "September 10, 2013/June 19, 2014" indicating that he did not receive the appointing authority's notice.

CONCLUSION

N.J.A.C. 4A:8-2.3(c)3 states that removal of names from a special reemployment list shall be made in accordance with applicable rules. *N.J.A.C.* 4A:4-4.7(a)11 allows the removal of 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 the appellant from an eligible list was in error.

In the instant matter, the appointing authority requested the removal of the appellant's name from the January 23, 2013 certification of the Maintenance Repairer (OL130119), special reemployment list, because he failed to complete the required pre-employment processing since he did not submit a completed employment application. Although the appellant argues that he did not receive the appointing authority's February 1, 2013 letter notifying him to submit a completed employment application, he has only submitted an unsworn notarized statement indicating that he did not receive the February 1, 2013 letter. However, 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). When a statement is notarized, but not sworn, this simply means that the notary is verifying the identity of the person signing the letter or statement. Thus, a sworn notarized statement or affidavit is required to rebut that presumption. Therefore, the unsworn notarized letter the appellant submitted on appeal is not sufficient to overcome the presumption that he received the February 1, 2013 letter. Accordingly, the appointing authority has shown sufficient justification for removing his name from the Maintenance Repairer, Bergen County, special reemployment list.

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 30th DAY OF JULY, 2014**



**Robert M. Czech
Chairperson
Civil Service Commission**

**Inquiries
and
Correspondence**

**Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312**

**c: Dennis J. Bollhardt
Ralph W. Kornfeld
Kenneth Connolly
Joseph Gambino**



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

July 31, 2013

Mr. Dennis J. Bollhardt

Title: Maint Rprer
Symbol: SRL
Jurisdiction: Bergen Co
Certification Number: OL130119
Certification Date: 1/23/13

Initial Determination: Removal – Did not Complete Pre-employment Processing

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

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

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:

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

Sincerely,
For the Assistant Director,

A handwritten signature in cursive script that reads "Sherelle D. Berry".

Sherelle D. Berry
Human Resource Consultant 2

c: Appointing Authority

SDB

