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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of John Shaw,  
Fire Lieutenant  
(PM5254N) Belleville

Examination Appeal

CSC Docket No. 2014-852

ISSUED: **JUL 30 2014**

(TMG)

John Shaw appeals his seniority score for the examination for Fire Lieutenant (PM5254N) Belleville.

The subject eligible list contained 15 names. One certification was issued and one appointment has been made. Mr. Shaw was added to the list at rank 4A (below rank 4). Additionally, Civil Service Commission records indicate that Mr. Shaw was regularly appointed from an open competitive list to the title Police Officer on February 21, 2005. He moved to the title Fire Fighter on February 27, 2008 via a regular appointment. Both positions were with Belleville. Mr. Shaw received seniority credit only for his Fire Fighter position.

In his appeal, Mr. Shaw contends that he should have received seniority points for his position as a police officer. He bases that claim on *N.J.S.A. 4A:4-7.9(a)1, Resignation/New Appointment* which provides for accumulated service for purposes of promotional eligibility and scoring.

CONCLUSION

Based on long standing policy, seniority for promotional examinations is based on permanent status in the title(s) to which the examination is opened. This policy is documented at least back to 1985. The former Merit System Board has sanctioned the limitation of seniority to those to which the examination was opened. See *In the Matter of Donald Silvey, Battalion Fire Chief (PM4513M), Elizabeth (MSB, decided May 25, 1993)*, wherein the Board found that limiting seniority to

the title to which the examination was opened did not discriminate based on age, and that the practice is based upon the belief that experience in the eligible titles(s) is more direct and pertinent to the next higher level position than overall seniority in any lower level title. *See also, In the Matter of Fire Captain and Fire Lieutenant Seniority, Clifton* (MSB, decided November 8, 2001) wherein the Board determined that good cause existed to allow Fire Lieutenant and Captain candidates to utilize seniority gained in the title Public Safety Officer because the duties of Public Safety Officer were primarily fire fighting duties.


The Commission notes that if the appellant was hired in a title which was used in two different departments within the same jurisdiction, for example Accountant, and he had taken a promotional examination for Senior Accountant, he would have been able to aggregate his seniority from both the old and the new departments for the purpose of examination seniority. However, while N.J.A.C. 4A:4-4.7(a)1 permits accumulated service for purposes of examination scoring, in order to be credited, the prior service must be related to the title sought. Since that is not the case in this matter, the appellant has not met his burden of proof that the seniority rules were improperly applied and, therefore, his appeal is denied.

### 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

  
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