



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Diana Westlund,
Berkeley Township

Request for Rule Relaxation

CSC Docket No. 2015-232

ISSUED: **AUG 14 2014** (HS)

Berkeley Township (Berkeley) requests that the provisions of *N.J.A.C. 4A:4-7.1A(b)* be relaxed in order to permit the retroactive Intergovernmental Transfer of Diana Westlund.

By way of background, Westlund was laid off from Seaside Park Borough (Seaside Park) as a permanent Public Safety Telecommunicator on November 11, 2010. On December 8, 2010, she sought an Intergovernmental Transfer to Berkeley. The necessary paperwork was completed by Westlund and Berkeley, the receiving jurisdiction. However, the paperwork was not sent to this agency for approval.

In its request to the Civil Service Commission (Commission), Berkeley states that it has employed Westlund as a Public Safety Telecommunicator since November 22, 2010 but that a recent review of its records revealed that Westlund's appointment was not reflected in her personnel records. Berkeley explains that due to an administrative oversight, the necessary paperwork was not submitted to this agency for approval. Therefore, Berkeley requests that the Commission allow Westlund's Intergovernmental Transfer so that she may be permanently appointed to the title of Public Safety Telecommunicator with an effective date of November 22, 2010. It is noted that the Division of Classification and Personnel Management supports Berkeley's request.

CONCLUSION

N.J.A.C. 4A:4-7.1A(a) states that an Intergovernmental Transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A. *N.J.A.C.* 4A:4-7.1A(b) provides that an Intergovernmental Transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction and the affected employee, and the approval of this agency. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

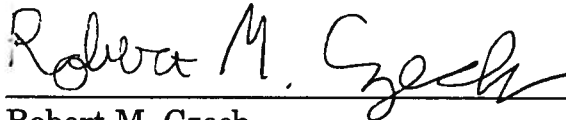
The purpose of the Intergovernmental Transfer Program is to promote more efficient public service by allowing State and local jurisdictions to obtain the services of talented and experienced individuals from other jurisdictions within the Civil Service system. However, absent a compelling emergent situation, such as public safety, accepting and employing interested applicants prior to formal approval by this agency could seriously circumvent the Civil Service system and frustrate the legislative goals of appointments based on merit and fitness as demonstrated in a competitive testing situation. In this case, Berkeley did not send this agency the appropriate forms due to an administrative oversight. However, a review of the Intergovernmental Transfer Agreement confirms that Westlund and Berkeley agreed to her transfer. Although Westlund's employment with Berkeley should not have commenced prior to this agency's approval, given that Westlund has been satisfactorily performing the duties with Berkeley, good cause exists to permit her permanent transfer to Berkeley effective November 22, 2010. *See In the Matter of Nicholas Rizzitello, Police Officer, Newark* (CSC, decided June 9, 2010) (Commission permitted the retroactive Intergovernmental Transfer of a Police Officer who transferred two and a half years prior to Commission's formal review and approval). *See also, In the Matter of Kenneth Dowzycki* (MSB, decided December 1, 2004). Moreover, Westlund was laid off from employment with Seaside Park, for reasons of economy and efficiency, effective November 11, 2010. She was then hired to perform the same duties with Berkeley on November 22, 2010. As such, she could have been considered intergovernmentally transferred at that time, since she was hired within one year of her layoff. It is also noted that Westlund could have been intergovernmentally transferred since no special reemployment list for her title existed at the time she became employed by Berkeley. *See N.J.A.C.* 4A:8-2.3(b). Additionally, no such list currently exists.

ORDER

Therefore, it is ordered that this request be granted and the appointment of Diana Westlund to the title of Public Safety Telecommunicator with Berkeley be recorded as an intergovernmental transfer effective November 22, 2010 following her layoff from Seaside Park.

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 13TH DAY OF AUGUST, 2014



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