



STATE OF NEW JERSEY

In the Matter of Theodore McKeown,
Clark Township

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-508

Administrative Appeal

ISSUED: (JET)
SEP 22 2014

Clark Township (Clark), on behalf of Theodore McKeown, requests that he be permitted to participate in the intergovernmental transfer program with a new working test period as a Police Officer with Clark.¹

By way of background, McKeown was appointed as a Sheriff's Officer with the Union County Sheriff's Office on July 15, 2013 and his 12-month working test period did not commence until December 12, 2013 when he completed the Basic Course for Police Officers. However, McKeown did not complete his working test period.² Subsequently, McKeown sought an intergovernmental transfer to Clark as a Police Officer. However, since he did not complete his working test period, a request could not be processed on the basis that McKeown was still serving in his working test period. See *N.J.A.C. 4A:4-7.1A(a)*.

In its request to the Civil Service Commission (Commission), Clark presents that as a result of recent retirements there is a need to hire additional Police Officers. Clark adds that while McKeown has not completed the working test

¹ Clark requested the Division of Classification and Personnel Management to transfer McKeown effective August 4, 2014.

² Official personnel records indicate that Mckeown did not complete the working test period due to various leaves of absences. However, his working test period was extended pursuant to *N.J.A.C. 4A:4-5.2(e)*.

period, he was highly recommended by the Union County Sheriff's Department.³ Thus, under these circumstances, Clark requests permission to proceed with an intergovernmental transfer for McKeown.⁴

CONCLUSION

N.J.A.C. 4A:4-5.2(d) states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status.

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 intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Division of Classification and Personnel Management. Absent rule relaxation procedures, a transfer in this case could not be processed since the transfer involves an employee who did not complete his working test period. *See In the Matter of Hisham Sheikh, Bergen County Sheriff's Office* (CSC, decided February 20, 2013).

In this case, McKeown began his working test period with the Union County Sheriff's Office, but he was unable to complete the remainder of his working test period. Clark has indicated that it is experiencing a shortage of Police Officers and is in need of law enforcement personnel.

N.J.A.C. 4A:4-7.1(A)a provides, in pertinent part, that an intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A, New Jersey Statutes. However, McKeown is not permanent since he did not complete his working test period. Given the particular circumstances presented in this case, including Clark's staffing needs for trained law enforcement personnel, good cause exists to relax the controlling regulatory provisions in order to permit the transfer of McKeown to Clark's Police Department. However, since the duties of a Sheriff's Officer and a Police Officer are not precisely the same, McKeown will be required to complete a 12-month working test period as a Police Officer in Clark. A new working test period must be

³ McKeown signed an agreement indicating that all accumulated seniority and accrued sick leave is waived, and the Union County Sheriff's Office approved the intergovernmental transfer.

⁴ The Division of Classification and Personnel Management has determined that the Police Officer title is substantially similar to the Sheriff's Officer title for intergovernmental transfer purposes. *See In the Matter of Jason Mangano, Police Officer, Vernon* (CSC, decided September 19, 2012). As a result, the job specifications for those titles were revised.

implemented to avoid the consequences of an incomplete working test period pursuant to *In the Matter of Jason Mangano, Police Officer, Vernon* (CSC, decided September 19, 2012).

N.J.S.A. 11A:2-28(a) and (b) provide that law enforcement officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights, and that waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and the Division of Classification and Personnel Management. *See also, N.J.A.C.* 4A:4-7.1A(b)2. In this case, McKeown signed an agreement indicating that he waives all accumulated seniority and all accrued sick leave which was acknowledged by the receiving agency. Accordingly, accumulated seniority, and sick leave do not transfer. *See N.J.A.C.* 4A:4-7.4(c).

ORDER

Therefore, it is ordered that the request, seeking to allow the transfer of Theodore McKeown from the Union County Sheriff's Office to Clark's Police Department, be granted. Further, Theodore McKeown's working test period shall commence upon appointment as a Police Officer in Clark.

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 17th DAY OF SEPTEMBER, 2014



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