



called. If they could not be reached, the layoff board made the decision based on the preferences and choices provided by the employee on the Declaration form. The appellant and his proxy were called and could not be reached. The final interview procedure, including the necessity for and the responsibilities of the proxy, was explained to all employees. The employees were required to take the final interview call, and if unavailable, the proxy could have taken the call. In this case, the decision was made on the appellant's behalf using the information he provided. The appellant was advised that title rights are not based on an individual's actual qualifications or job performance, but the Declaration form was the basis for the decision to provide him with a lateral title in Hunterdon County, and two union representatives were present to ensure that proper procedures were followed.

On his declaration form, the appellant indicated that he would accept a lateral position in Morris, Somerset, Hunterdon, Middlesex, Mercer and Burlington counties, in that order. His selections were reviewed for availability, and it was found that no lateral positions were available in Morris or Somerset counties. He did not fill in Section E of the Declaration form, regarding willingness to accept a part-time position. As such, a position in Hunterdon County, his third choice, was selected. The appellant was informed that he could not remain at Greystone Park Psychiatric Hospital when he had no title rights to positions in that facility and did not indicate his willingness to be employed part-time.

In response, the appellant argues that he performs challenging duties dealing with aggressive patients, and he is good at his job. He requests a Human Services Technician position.

### CONCLUSION

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. See *Malone v. Fender*, 80 N.J. 129 (1979). In this case, proper procedures were followed in deciding the appellant's placement in lieu of layoff. The appellant does not have rights to a Human Services Technician position, as he was provisional in this title on the date of the layoff, and was not permanent in that title. As such, his lateral displacement of a Human Services Assistant at Hunterdon Developmental Center was appropriate. As stated above, title rights are not based on an individual's actual qualifications or job performance.

No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

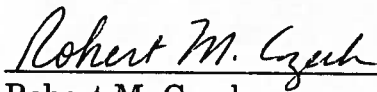
Thus, a review of the record fails to establish an error in layoff process and the appellant has not met his burden of proof in this matter.

**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 17<sup>th</sup> DAY OF SEPTEMBER, 2014



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