

seniority, while Mr. Alphonse has 15 years, 2 months and 29 days. The appellant was advised that for the duration of the layoff, Human Resource personnel were focused on the administration of the layoff, after which other personnel actions could be completed. In this case, the Division of Selection Services informed the Department of Human Services on June 6, 2014 that the qualifying examination for Mr. Alphonse could not be processed as a complete list from a promotional examination and a special reemployment list were in existence. As such, Mr. Alphonse was slated to be removed from his provisional position, but this was delayed by the administration of the layoff. He has since been returned to his Quality Assurance Specialist Health Services title (class code 26), effective August 9, 2014. This information was provided to the appellant and her representative in a letter dated August 20, 2014.

In reply, the appellant and her representative both state that they did not receive the letter, and as such, the appellant submitted additional arguments. She reiterated the facts as described, but contends that she should have been given the provisional position of Mr. Alphonse on the basis that she was permanent in the title of Assistant Director of Nursing Services 1, Developmental Disabilities.

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, the appellant was permanent in a title in class code 26, and Mr. Alphonse was permanent in the title Quality Assurance Specialist Health Services, also class code 26, and his seniority was greater than the appellant's seniority. The appellant's permanency in the title of Assistant Director of Nursing Services 1, Developmental Disabilities is not a relevant issue and her reliance on this is misplaced. It does not establish that she was permanent in a higher class code, or had more seniority, than Mr. Alphonse. The appellant did not have rights to Mr. Alphonse's provisional position which was in the same class code as both of their regular titles. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

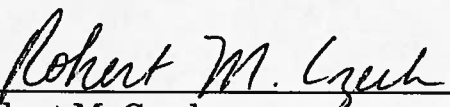
Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met her burden of proof in this matter.

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 4th DAY OF FEBRUARY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Admira Marah
 Robert Yaeger
 Chanda Curtis
 Christina Mongon
 Kenneth Connolly
 Joseph Gambino