

B-14



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

Layoff Appeal

In the Matter of Mark Tahmoosh,
Department of Human Services

CSC Docket No. 2015-1073

ISSUED: FEB - 9 2015

(RE)

Mark Tahmoosh, a Principal Community Program Specialist in the Division of Developmental Disabilities, Department of Human Services, appeals his lateral displacement from Union County to Essex County in lieu of layoff.

By way of background, DHS submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles, including employees in the Division of Developmental Disabilities, due to the closure of the Woodbridge Developmental Center and other facilities, effective January 9, 2015. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that Mr. Tahmoosh was laterally placed in a vacant position in Essex County.

On appeal, Mr. Tahmoosh argued that his position was assigned out of the Hamilton Central Office, and that the individual who bumped him should not have been allowed to do so since he works in Union County. He stated that this individual should have been offered the vacancy in Mercer County if he had chosen that County. In addition, he stated that he passed the Supervisory Test Battery (STB) in an examination for Supervising Community Program Specialist (PS4788K) and that his STB score should have been applied to the examination for Quality Assurance Coordinator (PS2527K). He did not file an application for (PS2527K) and appeals that he was not notified for that examination.

Commission staff responded that examination issues are not a factor in layoff title rights determinations. The appellant was informed that, aside from the fact that his appeal regarding his STB score was unrelated to title rights, it was also untimely. It was indicated to him that his position was located in Union County, which was the first choice of the individual who bumped him. He was advised that it is irrelevant that his location was "assigned" from another county, and that has no bearing on layoff rights.

Mr. Tahmoosh replied that he has gotten no response to his inquiries regarding an appointment to "position D31-13" from the list for Supervising Community Program Specialist (PS4788K). He states that if someone is appointed to "position D31-13[,] then the same should have been done with me with my Central office scoped position of D18-13."¹ He states that an appointment from PS4788K is evidence that his seniority and title rights were incorrectly applied. In a supplement, Mr. Tahmoosh indicates that he discovered that no appointment was made to "position D31-13" from the eligible list for (PS4788K).

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, Mr. Tahmoosh has less seniority than the individual who displaced him. His explanation regarding "position D31-13" is misdirected, as the list for Supervising Community Program Specialist (PS4788K) expired on May 9, 2014. Three individuals had been appointed from that list in 2012, and any examination issue raised by the appellant has no bearing on his title rights. Nothing the appellant has argued has any relation to his seniority. The appellant's arguments are untimely and immaterial to the determination of layoff rights.

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

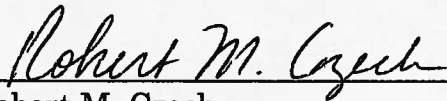
¹ A designation which he described as for a posting by the appointing authority for Quality Assurance Coordinator.

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



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