

CSC

B-21



STATE OF NEW JERSEY

In the Matter of Baily Martinez,
Payroll Clerk (S0106S)

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-334

Examination Appeal

ISSUED: FEB 05 2015 (BS)

Baily Martinez appeals the decision of the Division of Selection Services denying his request for a make-up examination for Payroll Clerk (S0106S).

The subject examination was administered on June 5, 2014. The appellant was recorded as not showing up for the examination. An eligible list promulgated on July 10, 2014 containing the names of 409 qualified applicants.

On appeal to the Civil Service Commission, the appellant states that he did not receive his notice to appear for the subject examination until he returned home on June 5, 2014 which did not leave him sufficient time to get to the test center in time to take the examination. However, he failed to provide a sworn affidavit in support of his appeal.

By letter dated September 5, 2014, the appellant was instructed to submit an affidavit, *i.e.*, a signed, sworn statement in the presence of an attorney or notary public, indicating that he did not receive a Notification to Appear for Examination within sufficient time to appear for the examination. The letter instructed that a notary public had to indicate the following: "Subscribed and sworn before me on (month day), 2014 by (appellant's name)." The affidavit had to be received within ten days of the appellant's receipt of the letter.

The ten day period passed and there was no record of the appellant submitting the requested documentation. Accordingly, the file in the matter was closed for lack of pursuit.

In December 2014, the appellant telephoned the Division of Appeals and Regulatory Affairs to inquire as to the status of his appeal and he was informed that the requested documentation was not received whereupon the appellant asserted that he delivered it in person and received a receipt from the guard. Although he had a copy of the receipt, he failed to keep a copy of the document.

The appellant was again afforded the opportunity to submit a sworn statement and he submitted a letter indicating that he received the notice of examination too late to appear for the June 5, 2014 examination. Although the letter had a notary seal, it lacked the required evidence that it was a sworn statement ("Subscribed and sworn before me on (month day), 2014 by (appellant's name)") and was, therefore, not acceptable.

CONCLUSION

N.J.A.C. 4A:4-2.9(a), Make-up Examinations, provides that make-up examinations, except for police, fire and professional level engineering promotional examinations, may be authorized for the following reasons:

1. Error by the Civil Service Commission or appointing authority;
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation; and
6. Other valid reasons.

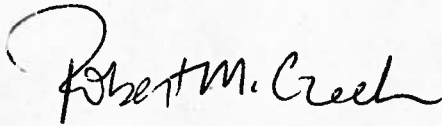
In the instant matter, the appellant indicated the he did not receive the notice to appear for the June 5, 2014 examination until after he returned home on June 5, 2014, too late to appear at the testing center. However, even though provided ample opportunity to do so, he failed to provide a sworn statement attesting to same. Under these circumstances, no basis exists to provide the appellant with a make-up examination. The Civil Service Commission notes that 409 other applicants received their notices to appear, were able to arrive at the testing center on time, pass the examination and, as a result, have their names appear on the eligible list for the subject title. Accordingly, the appellant's request for a make-up examination is denied and the appellant has failed to satisfy 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 4TH DAY OF FEBRUARY, 2015**



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