

B-77



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of
Angela Hinds-Marsden and
Lanesha Jones, Department of
Human Services

Layoff Appeals

CSC Docket Nos. 2015-1165
2015-1371

ISSUED: FEB - 9 2015

(RE)

Angela Hinds-Marsden, represented by Robert Yaeger, CWA Local 1040, and Lanesha Jones, Department of Human Services (DHS), appeal their lateral and demotional title rights.

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 of Vineland Developmental Center, due to the closure of the Woodbridge Developmental Center and other facilities, effective January 9, 2015. Numerous positions in various titles at several institutions are affected. As a result, a review of official records indicates that Ms. Hinds-Marsden was targeted from her Cottage Training Supervisor title at Woodbridge Developmental Center, and she displaced a Residential Living Specialist in Mercer County. Ms. Jones was a Cottage Training Technician at Vineland Developmental Center and selected a demotion to Human Services Assistant in Cumberland County.

On appeal, each appellant states that she was not offered higher choices at the interviews. Ms. Hinds-Marsden listed six lateral choices, and the first three were Hunterdon, Somerset and Mercer Counties, in that order. She appeals that she was not offered a position in Hunterdon County, her first choice, and she was placed in Mercer County, her third choice. She states that a less-senior targeted employee was offered a position in Hunterdon County after the appellant was told that no positions were available in that County.

There were no positions available in any of the four lateral choices listed by Ms. Jones. She listed four demotional choices, and the first two were Cape May and Cumberland Counties, in that order. She was placed in Cumberland County, her sixth choice. On appeal, she states that she was not offered a position in Cape May County, her fifth choice. It is noted that Vineland Developmental Center is in Cumberland County.

CONCLUSION

There are three types of displacement rights, two of which are title rights, lateral and demotional; the third right is a demotional right to a previously held title (or prior held right). Lateral and demotional title rights are determined in accordance with *N.J.A.C. 4A:8-2.1 et seq.* 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.

In these cases, each appellant argues that she was not offered the option to select a higher choice than what she received at the interview. Employees were informed that they were to make their decisions ahead of time and be prepared to provide their final decision when called for a final interview. The final interview was not the time to deliberate preferences, but was the time to make a decision based on preferences and the available opportunities under the circumstances. Employees were told that they could change their mind at the interview stage, but that once the employee made their final decision, he or she could not change it unless they decided to retire.

The layoff team consisted of staff from the personnel office of DHS, the Civil Service Commission (Commission) and a union representative. The union representative was present to ensure that proper procedures were followed. If an available choice was not offered by DHS staff, Commission staff would have pointed it out, and the union representative was there to ensure that all available choices were offered and that all employees were treated fairly and objectively. At this point in time, the appellants suggest that they were treated unfairly by the layoff team, including their own union representatives. This is unlikely. The appellants' argument that they were not offered these choices is unpersuasive given that there were individuals representing three independent groups listening to the interview, double-checking that it was proceeding according to fair and objective standards. Preventing this type of occurrence and ensuring that the appellants' interests were maintained are precisely the reasons why the union representatives were present. If the appellants believe that their interests were not fairly monitored by their union representatives, they should follow up with their unions about this issue. Even if the union representatives chose to remain silent and allowed unfairness in

the interview process, Commission staff would not fail to point out choices higher in the list if they were not being offered before lower choices.

The appellants were offered the choices listed in their appeals, and declined them during the interview for their own reasons. In this regard, it must be emphasized that due to the domino effect of a layoff action, the wide range of options and limited time constraints, it would be administratively infeasible to reconstruct the layoff chains and re-determine affected employees' layoff options simply because an employee requests a change in a layoff option.

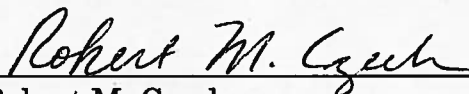
A review of the record fails to establish an error in the layoff process and the appellants have not met their burden of proof in these matters.

ORDER

Therefore, it is ordered that these appeals 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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