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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Kayode Lasekan,
Department of Human Services

CSC Docket No. 2015-1262

Layoff Appeal

ISSUED: FEB 9 2015

(RE)

Kayode Lasekan, a Human Services Technician with the Department of Human Services, appeals his lateral displacement in lieu of layoff to Cottage Training Technician at New Lisbon Developmental Center.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles due to the closure of the Woodbridge Developmental Center, effective January 9, 2015. Numerous positions in various titles at several institutions were affected. A review of official records indicates that Mr. Lasekan was displaced, and he laterally displaced a Cottage Training Technician at New Lisbon Developmental Center.

On appeal, the appellant stated that he would rather take a demotion to Human Services Assistant and stay at Ancora Psychiatric Hospital. He contends that, at his interview he preferred his permanent title of Human Services Technician, but that he was under stress and sick, which affected his choice.

Commission staff responded that, on his Declaration Form, the appellant indicated that he would accept employment in 12 lateral choices before he listed demotional choices. He made this decision before the interview date for his own reasons. He was reminded that he could have skipped his lateral choices during the interview, or he could have listed preferred demotional choices higher on his declaration form, and chose to do neither. In addition, at the start of the interview, employees were asked, "Can you talk to us?" and if they responded "No," their

proxy was called or the decision was made for them. The appellant must have answered in the affirmative that he could talk, for him to have made his decision. If he had decided at the time that he was not able to respond, his proxy would have been called. To request a demotion instead of a lateral displacement at this time is, in effect, a change of mind, which is not an option or evidence of a violation of his title rights.

In response, the appellant states that at the interview he was stressed from a departmental hearing regarding a disciplinary issue held two days earlier, and includes a letter from the attorney representing him in that matter, supporting his claim of stress.

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 was advised of the layoff and final interview processes and provided with resources to answer questions before the layoff was administered. His Declaration form had lateral choices listed before demotional choices, and he made this listing far in advance of the interview. He had the option of allowing his proxy to make choices for him if he was under too much stress to make a choice during the interview. On appeal, he has provided no evidence or documentation of a medical condition which would preclude him from making a choice at the interview: but in any event, he replied in the affirmative that he would take the call. To request another location at this time is, in effect, a change of mind, which is not an option or evidence of a violation of title rights. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

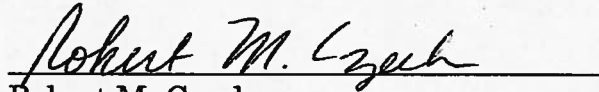
Thus, a review of the record fails to establish an error in layoff process and the appellant has not met his burden of proof in this matter.

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 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: Kayode Lasekan
Alfred Filippini
Christina Mongon
Kenneth Connolly
Joseph Gambino