



B-157

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of William Hawkins,  
Department of Human Services

Administrative Appeal

CSC Docket No.2015-1227

ISSUED: FEB - 5 2015 (CSM)

William Hawkins requests that his title seniority as a Police Officer with the Borough of Somerdale (Somerdale) be applied to his current title of Senior Police Officer, Human Services.

By way of background, Hawkins intergovernmentally transferred to the Department of Human Services from Somerdale from the title of Police Officer to the title of Senior Police Officer, Human Services effective October 13, 2007. In accordance with legislative changes to the intergovernmental transfer program that became effective on August 2, 2006, the appellant was provided the option to waive all of his accumulated seniority and sick leave. See N.J.S.A. 11A:2-28. A review of the intergovernmental transfer agreement for the appellant indicates that he *did not opt* to waive his accumulated seniority upon transfer to the Department of Human Services.

In his October 29, 2014 request to the Civil Service Commission (Commission), Hawkins requests that his accumulated title seniority from Somerdale as a Police Officer be applied to his intergovernmental transfer to the title of Senior Police Officer, Human Services. Hawkins states that his hire date as a Police Officer with Somerdale was August 1, 1993 and, as a result of a pending reassignment, discovered that the information in his personnel record appears to be incorrect. In this regard, the appellant explains that reassignments are based on in-title seniority and when he questioned his overall in-title seniority on record, the appointing authority advised him that he only possessed seven years of in-title seniority. Thus, Hawkins maintains that it does not appear that his overall in-title

seniority was accurately calculated to include the seniority he gained as a Police Officer with Somerdale prior to his intergovernmental transfer. The appellant emphasizes that this inaccuracy will have a significant impact on his work schedule, as reassignments are based on seniority and he notes that he was told when he transferred in 2007 that even though the titles were different, his seniority would be transferred. Hawkins also asserts that he was inaccurately informed of his potential options when he effected his intergovernmental transfer in 2007, as he was told that a waiver of his accumulated sick time was mandatory, but the intergovernmental transfer agreement indicates that unused sick leave shall be carried forward by the transferee, except for those in Firefighter titles. Thus, since he serves in a Police Officer title, the appellant is unclear as to why he was required to waive his rights and argues that he was inaccurately advised of his options at the time of transfer.

Although provided the opportunity, the appointing authority did not provide any additional argument or information for the Commission to consider in this matter.

### CONCLUSION

*N.J.S.A. 11A:2-28(a)* provides for the intergovernmental transfer of law enforcement officers and permits them the option to waive all accumulated seniority and sick leave. Stated differently, the parties to an intergovernmental transfer of a law enforcement officer can choose whether to waive or *not to waive accumulated seniority*. If the latter were to occur, a transferred Police Officer would retain accumulated seniority after the transfer. Prior to the adoption of *N.J.S.A. 11A:2-28* on August 2, 2006, the rules governing intergovernmental transfers specifically excluded retention of seniority for a Police Officer who intergovernmentally transferred to another jurisdiction as a Police Officer. On the other hand, a Sheriff's Officer who intergovernmentally transferred to another jurisdiction as a Sheriff's Officer, under the prior rule, would have automatically retained his or her seniority as the rule did not exclude the retention of seniority.

Conversely, where the title to which the employee is transferring is different from that held on a permanent basis in the sending jurisdiction, the receiving jurisdiction is required to request that the Chairperson of the Civil Service Commission or designee approve the title, based on the following criteria: 1) the titles(s) shall have substantially similar duties and responsibilities; 2) the education and experience requirement for the title(s) are the same or similar and the mandatory requirements of the new title shall not exceed those of the former title; 3) there shall be no special skills, licenses, certification or registration requirements for the new title which are not also mandatory for the former title; and 4) any employee in the former title can, with minimal training and orientation, perform the duties of the new title by virtue of having qualified for the former title. *See*

*N.J.A.C.* 4A:4-7.1A(c)2. Thus, it is clear that intergovernmental movements contemplate the movement of employees between titles that have been determined to be substantially similar. In those cases where the titles involved have been determined to be substantially similar, such as from Police Officer to Senior Police Officer, Human Services, it has been the practice of the Commission to process the intergovernmental transfer.

Permitting the retention of seniority accrued in dissimilar law enforcement titles would result in a direct conflict with rules regarding seniority calculations in the event of a layoff. Seniority for police titles is the amount of continuous permanent service in an employee's current permanent title and other titles that have (or would have) lateral or demotional rights to the current permanent title. See *N.J.A.C.* 4A:8-2.4(b). This is significantly different from how seniority is determined for non-police titles, where seniority is based on continuous permanent service in the jurisdiction, regardless of title. See *N.J.A.C.* 4A:8-2.4(a). For purposes of intergovernmental transfers, the Police Officer and the Senior Police Officer, Human Services titles are both entry level titles for their respective series. Thus, movement from one to the other is considered a lateral, rather than promotional or demotional action. Moreover, as stated above, the Commission has considered them substantially similar for the purposes of intergovernmental transfers. In this regard, according to the job specification for Police Officer, incumbents are primarily assigned a tour of duty, on foot, or in an automobile, to patrol a designated area and to provide assistance and protection for persons, to safeguard property, to assure observance of the law, and to apprehend lawbreakers. The job specification for Senior Police Officer, Human Services indicates that incumbents, under direction of a Police Sergeant, or other supervisor in the police unit of an institution or cluster of institutions under the jurisdiction of the Department of Human Services, during an assigned tour of duty does varied tasks involved in patrolling buildings and grounds and safeguarding the peace and safety of clients, residents, employees, and property; does related work as required.

In other words, since the Police Officer and the Police Officer, Human Services title series are substantially similar, in accordance with *N.J.A.C.* 4A:8-2.1(a) and (b), an intergovernmental transferee to the Senior Police Officer, Human Services title, if agreed to as part of an intergovernmental transfer, should have any title seniority as a Police Officer be also considered as title seniority for Senior Police Officer, Human Services. Although the Police Officer, Human Services title series is used exclusively in State service, while, the Police Officer title series is only utilized in local service, under the controlling regulatory provision, as the titles are substantially similar, they in theory, would have lateral or demotional rights to a Police Officer title. As such, Hawkins' title seniority as a Senior Police Officer, Human Services should include his title seniority as a Police Officer with Somerdale.

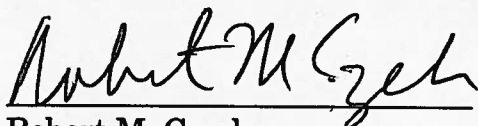
With respect to his concern about waiving his accumulated sick time, participating in the intergovernmental transfer program is solely at the option of the receiving agency and transferring employee; thus, all terms must be agreed upon by the parties prior to an employee leaving one jurisdiction for another and this agency does not have standing to create a binding retroactive agreement between parties that would change these terms. In the instant matter, Hawkins agreed to waive his accumulated sick time prior to intergovernmentally transferring to the Department of Human Services. The Department of Human Services can require this as a condition of the transfer and this agency cannot change this term.

### ORDER

Therefore, it is ordered that the request be granted in part and William Hawkins is to retain the accumulated title seniority gained prior to his intergovernmental transfer.

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 4<sup>TH</sup> DAY OF FEBRUARY, 2015



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