



their final decision, he or she could not change it unless they decided to retire. In her case, on her Declaration Form, the appellant indicated that she would not accept a part-time position, less hours in the work week, a 10 month position, or a demotion to a prior-held title. She made this decision before the interview date for her own reasons. She signed and dated page 2 of the form and confirmed choices by completing and signing the last section on page 1, "Employee Certification and Signature." This states that she understood the instructions for the Declaration Form, and its purpose.

The appellant was informed that no full-time positions were available in the counties she selected. The numbers called for her and her proxy were those she provided on her Declaration Form. The team was unable to contact her or her proxy. Thus, the decision was made on her behalf using the information she provided. One of the decision makers was a union representative, to ensure that proper procedures were followed, and the layoff procedure in her case was carried out as described it would be in the event that she and her proxy were unavailable. Her Declaration Form was the basis for the decision for the layoff, and there was no evidence of a violation of title rights. Once she could not be contacted, the layoff team did the best they could with the information she provided.

In response, the appellant stated that she had not been contacted on her cell phone, and her proxy could not be contacted, and she provides records from the cell phone provider. She argues that she should have been told that only part-time positions were available in the four locations she chose, and she should not have been laid off.

## 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, the appellant was advised of the layoff and final interview processes and provided with resources to answer questions before the layoff was administered. She chose not to accept a part-time position, less hours in the work week, or a 10 month position, on her Declaration Form. This information was taken under consideration before the decision was made to lay her off.

As to contacting her, the appellant listed only her home phone number on her Declaration Form, and did not list her cell phone as a contact number for the interview. As such, the layoff team did not call her cell phone number. Had she listed that number on her Declaration Form, they would have done so.

The appellant also maintains that her proxy had not been contacted. According to the cell phone records provided, no call was made to that number. As such, either that record did not list incoming calls which did not leave a message or the layoff team called the wrong number. In any event, there was no choice on the declaration form to be made. For example, a decision that might have been given to the proxy from the Declaration Form could have been whether to accept a position in the second or third location choices listed on the form. In this case, however, no choices were available for full-time work in the four locations listed by the appellant, and she checked that she would not accept less than full-time work. Choices may have been available in part-time work or in other locations not listed as her choices on the form, and these would have been offered as a courtesy had she been available. It is simply not known whether or not her proxy would have selected one of these courtesy choices in the absence of the availability of her selected choices on the form. She does not argue in her appeal that he would have done so. Rather, in her appeal she states that the fact that she could not be contacted was unfair. When told that the choice made was based on the information provided on the Declaration Form by her, she argues that she should have been told that part-time positions were available for her chosen locations. She did not indicate in either submission that she would have accepted a part-time position, or that her proxy knew that she would have done so and would have selected a part-time position for her in opposition to what she indicated on her Declaration Form. While it is unfortunate that she or her proxy were not contacted or could not be reached on the layoff date, the choices she made on her Declaration Form were honored, and there is no evidence of misapplication of the pertinent uniform regulatory criteria in determining her layoff rights.

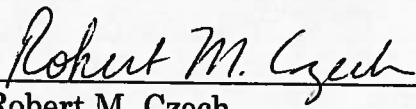
Thus, based on the totality of the circumstances, a review of the record fails to establish an error in the layoff process and the appellant has not met her burden of proof in this matter.

#### 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 4<sup>th</sup> DAY OF MARCH, 2015**

  
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