

B-19



STATE OF NEW JERSEY

In the Matter of Dennis Diggins,
County Park Ranger (C2397N),
Monmouth County

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-1809

List Removal Appeal

ISSUED: MAR 09 2015 (JET)

Dennis Diggins appeals the attached decision of the former Division of Classification and Personnel Management (CPM),¹ which found that the appointing authority had presented a sufficient basis to remove the appellant's name from the County Park Ranger (C2397N), Monmouth County, eligible list on the basis of failure to complete pre-employment processing.

The appellant took the open competitive examination for County Park Ranger (C2397N), achieved a passing score, and was ranked tied for 32 on the resultant list of 139 eligibles that has an expiration date of May 16, 2015. The appellant's name was certified on January 30, 2014 (OL140123). In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of failure to complete pre-employment processing. Specifically, the appointing authority indicated that it sent a letter dated February 12, 2014 to the appellant instructing him to complete an application for employment and return it within five days of his receipt of the letter. However, the appointing authority did not receive a response. On appeal to CPM, the appellant asserted, among other things, that he timely responded to the appointing authority's request. CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

On appeal, the appellant submits a sworn notarized letter indicating, among other things, that he did not receive a "pre-employment notice" from the appointing

¹ Now the Division of Agency Services.

authority. He adds that, had he received the appointing authority's February 12, 2014 letter, he would have promptly completed the enclosed employment application and returned it. The appellant states that he was not aware of the situation until he received notice that his name was removed from the eligible list. Moreover, the appellant contends that he timely responded to the Notice of Certification advising the appointing authority that he was interested in the position.

In support of the appellant's appeal, Assemblyman Sean T. Kean, 30th District, provides a letter indicating that the appellant did not receive the appointing authority's February 12, 2014 letter. Moreover, Assemblyman Kean recommends that the appellant's name should be restored to the eligible list.

In response, the appointing authority maintains that it did not receive a completed employment application in response to its February 12, 2014 letter. Therefore, he failed to complete pre-employment processing and the removal of his name from the eligible list was proper.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the removal an eligible's name from an eligible list for other valid reasons. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error. It is initially noted that the appointing authority has the authority and ability to require potential new hires to undergo pre-employment processing to ensure that the candidate is qualified for appointment. Such pre-employment processing may include any and all conditions necessary for an appointing authority to assess a candidate's qualifications. Further, this information is important as it serves the important function of informing the appointing authority as to any significant differences between candidates which may assist it in the selection process. *See in the Matter of Bruce C. Cooke* (MSB, decided May 8, 2001); *In the Matter of James Smith* (MSB, decided April 24, 2001).

In this matter, the appellant argues that he was unable to submit a completed employment application because he did not receive the appointing authority's February 12, 2014 letter. In support of his contentions, the appellant submits a sworn notarized letter indicating that he did not receive a "pre-employment notice" from the appointing authority. He also submits a letter from Assemblyman Kean in support of his arguments. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his notarized statement in this matter. *See SSI Medical Services, Inc. v. State*

Department of Human Services, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Therefore, the appellant has sustained his burden of proof in this matter.

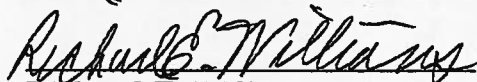
Accordingly, given the position at issue and in consideration of the totality of the circumstances, the appellant has met his burden of proof and the appointing authority has not shown sufficient justification for removing his name from the eligible list for County Park Ranger (C2397N), Monmouth County.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for County Park Ranger (C2397N), Monmouth County, for prospective employment opportunities only.

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 MARCH, 2015



Richard E. Williams
Member
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Dennis Diggins
Assemblyman Sean T. Kean
Jacquelin Y. Signorelli
Frank J. Tragno
Kenneth Connolly
Karen Engan



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

December 9, 2014

Mr. Dennis Diggins	Title: Cnty Park Ranger Symbol: C2397N Jurisdiction: Monmouth Co Certification Number: OL140123 Certification Date: January 30, 2014
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Initial Determination: Removal – Did not Complete Pre-employment Processing

This is in response to your correspondence contesting the removal of your name from the referenced eligible list.

The Appointing Authority requested the removal of your name in accordance with *N.J.A.C. 4A:4-4.7(a) 11*, which permits the removal of a candidate's name from the eligible list for failure to complete the pre-employment process.

In support of its decision, the Appointing Authority provided a copy of a February 12, 2014, letter that was sent to you along with an employment application. You were instructed to return the completed application within five days upon receipt. The Appointing Authority states that the application was never returned. Nor was a response to the letter received.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name has been sustained, and your appeal is denied.

Please be advised that in accordance with Civil Service Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

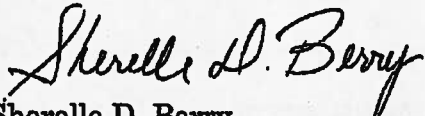
Please be advised that pursuant to P.L. 2010, c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L.

Dennis Diggins
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1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Assistant Director,


Sherelle D. Berry
Human Resource Consultant 2

c: Appointing Authority

SDB