

CSC
B-70



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Ryan Nichols,
Borough of Elmwood Park

Administrative Appeal

CSC Docket No. 2015-2434

ISSUED: **MAR 06 2015** (HS)

The Borough of Elmwood Park (Elmwood Park), on behalf of Ryan Nichols, requests that he be permitted to participate in the intergovernmental transfer program.

By way of background, Mr. Nichols was appointed as a Police Officer in the City of Paterson (Paterson) on July 21, 2014, but his 12-month working test period did not commence until December 19, 2014 when he graduated from the Bergen County Police Academy. Mr. Nichols seeks an intergovernmental transfer to Elmwood Park. Mr. Nichols, Paterson and Elmwood Park reached an agreement as to the terms of transfer. The agreement provides, in pertinent part, that Mr. Nichols waives all accumulated seniority and sick leave in accordance with *N.J.S.A. 11A:2-28(a)* and (b). However, his request cannot be processed, absent rule relaxation, on the basis that Mr. Nichols is still serving in his working test period. *See N.J.A.C. 4A:4-7.1A(a)*.

In its request to the Civil Service Commission (Commission), Elmwood Park presents that it has an immediate need for a fully trained Police Officer due to its critical public safety and staffing needs. Under these circumstances, Elmwood Park requests relaxation of the intergovernmental transfer rules so that it may hire Mr. Nichols on April 2, 2015.

CONCLUSION

N.J.A.C. 4A:4-5.2(d) states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status. *N.J.A.C.* 4A:4-5.2(d)1 states that in local service, law enforcement officers who are required by *N.J.S.A.* 52:17B-66 *et seq.* (Police Training Act) to complete a police training course shall not begin their working test period until notification is received by the appointing authority from the Police Training Commission of the successful completion of the police training course. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee and this agency. Absent rule relaxation procedures, a transfer in this case could not be processed since the transfer involves an employee who has not yet completed his working test period. *N.J.A.C.* 4A:4-7.1A(a) states that an intergovernmental transfer is the movement of a *permanent* employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A. However, Mr. Nichols is not permanent since he did not complete his 12-month working test period. Given Elmwood Park's critical need for trained law enforcement staff, good cause exists to relax the controlling regulatory provisions in order to permit the transfer of Mr. Nichols and to allow him to complete the remainder of his working test period with Elmwood Park.

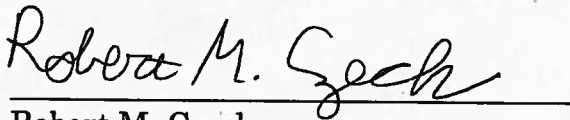
As a final matter, *N.J.S.A.* 11A:2-28(a) and (b) provide that law enforcement officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights, and that the waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and this agency. *See also N.J.A.C.* 4A:4-7.1A(b)2. In this case, Mr. Nichols agreed to waive all accumulated seniority and all accrued sick leave. Accordingly, accumulated seniority and sick leave do not transfer. *See N.J.A.C.* 4A:4-7.4(c).

ORDER

Therefore, it is ordered that this request, seeking the transfer of Ryan Nichols, to Elmwood Park, be granted.

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



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