



B-57

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Brian Byrd,  
Technical Support Specialist 1  
(PS8941U), Office of Information  
Technology

Examination Appeal

CSC Docket No. 2015-1538

ISSUED: APR - 2 2015 (SLK)

Brian Byrd appeals the determination of the Division of Selection Services<sup>1</sup> (Selection Services) that, per the substitution clause for education, he was below the minimum requirements in experience for the promotional examination for Technical Support Specialist 1 (PS8941U), Office of Information Technology.

The examination at issue was announced with specific requirements that had to be met as of the July 21, 2014 closing date (see attached). A total of 10 employees applied for the subject examination that resulted in a list of five eligibles with an expiration date of February 11, 2018. There are currently five employees serving provisionally in the subject title. Certification PS150164 containing the names of four eligibles<sup>2</sup> has been issued and has a disposition due date of May 12, 2015.

On his application, Mr. Byrd indicated that he was provisionally serving in the title under test from August 2012 to the July 21, 2014 closing date, an Information Technology Specialist from December 2009 to August 2012, a Communications Network Monitor from August 2003 to December 2009, a Computer Operator 3 from February 2002 to August 2003, and a Computer Operator Assistant from May 2000 to February 2002. Personnel records indicate that he was provisionally serving in the subject title from August 2012 to the July 21, 2014 closing date, an Information Technology Specialist from December 2009 to August 2012, a Computer Operator 3 from August 2002 to December 2009, and a

<sup>1</sup> Now the Division of Agency Services.

<sup>2</sup> Only four names were certified since one of the applicants was granted and successfully passed a make-up examination after the eligible list was certified.

Computer Operator Assistant from December 2000 to August 2002. The appellant also indicated that he possessed 16 college credits. Selection Services credited him with five years and two months of experience based on six months of experience based on his provisional service and completed college credits, however, it could not credit him for his experience as a Computer Operator 3 since it constituted out-of-title work. Consequently, Selection Services determined that he lacked one year and 10 months of experience.

On appeal, Mr. Byrd highlights that he had previously been determined to be eligible for the subject title for a prior examination which he took, but did not pass. The appellant provides numerous examples detailing how the duties that he performs correspond to the job specification and he maintains that he has over 10 years of experience working with all kinds of hardware and peripheral software packages. The appellant asserts that his experience providing first and second level help desk support and troubleshooting issues for various clients utilizing equipment, software, and applications from multiple vendors should be considered applicable experience. Moreover, the appointing authority confirms that due to business necessity, Mr. Byrd performed out-of-title duties as a Computer Operator relevant to the examination from August 2003 to December 2009.

### CONCLUSION

*N.J.A.C. 4A:4-2.6(a)* provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C. 4A:4-2.6(c)* provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process.

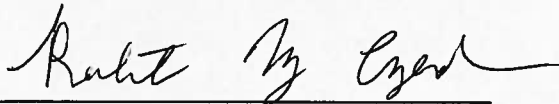
Initially, it is noted that Selection Services correctly determined that the appellant was not eligible for the subject examination. Mr. Byrd was properly credited with five years and two months of experience based on his college credits, his provisional experience in the subject title, and his experience as an Information Technology Specialist and would need an additional one year and 10 months of relevant experience to establish eligibility. It could not credit him with any relevant experience the appellant gained as a Computer Operator 3 as it would be out-of-title-work. However, the appointing authority has confirmed that Mr. Byrd performed out-of-title duties from August 2003 to December 2009 due to business necessity. Additionally, the examination situation is not competitive as there are only five eligibles on the list and there are currently five employees serving provisionally in the subject title. Also, the appellant continues to serve provisionally in the title under test. Accordingly, good cause exists to accept the appellant's out-of-title work experience, for eligibility purposes only, and to admit him to the examination.

**ORDER**

Therefore, it is ordered that the appeal be granted, and Brian Byrd's application be processed 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 1<sup>st</sup> DAY OF APRIL, 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**

**Attachment**

**c: Brian Byrd  
Sharon Pagano  
Kelly Glenn  
Joseph Gambino**