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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

In the Matter of Meter Worker 1 (M0056S), Borough of Keyport

CSC Docket No. 2015-2439

Appointment Waiver

ISSUED: JUN - 8 2015 (LDH)

The Borough of Keyport requests permission not to make an appointment from the June 13, 2014 certification for Meter Worker 1 (M0056S).

The record reveals that the appointing authority provisionally appointed Robert Hassmiller, pending open-competitive examination procedures to the title of Meter Worker 1, effective April 10, 2013. As a result of the provisional appointment, an examination was announced with a closing date of January 28, 2014. The resulting eligible list of 13 names, including Hassmiller's name, promulgated on June 5, 2014 and expires on June 4, 2017. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On June 13, 2014, the names of three eligibles, including Hassmiller, who was tied as the first ranked eligible, were certified from the subject eligible list. The appointing authority returned the certification noting that Hassmiller's employment was terminated and requested an appointment waiver as it was unable to make an appointment due to the subject title being abolished as meters would be read remotely.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received.

Agency records reveal that Hassmiller was appointed to the competitive title of Police Officer, effective August 4, 2014. Personnel records further reveal that there are no employees in the subject title serving provisionally, pending an open competitive examination, with the appointing authority.

A review of the job specification for Meter Worker 1 reveals that an individual in that title reads water, parking and/or other meters, reports damaged meters and leaks, and, when required, assists in the installation and repair of meters. A review of the job specification for Police Officer reveals that an individual in that title patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, and to apprehend law-breakers.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the subject examination was generated as a result of the provisional appointment of Hassmiller. After a complete certification was issued, the appointing authority indicated that it would not be making any appointments as the subject position was to be abolished and as such Hassmiller was separated from employment. Moreover, agency records indicate that Hassmiller received a regular appointment to the title of Police Officer, effective August 4, 2014. A review of the job specification reveals that the title of Meter Worker 1 performs significantly different duties than an individual in the title of Police Officer. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

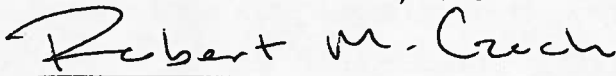
Although the appointment waiver is granted, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. Thus, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

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 3rd DAY OF JUNE, 2015



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