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STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of M.M., Department of
Human Services

Court Remand

CSC Docket No. 2015-2963

ISSUED: JUN - 8 2015 (SLD)

The Superior Court of New Jersey, Appellate Division, vacated the Civil Service Commission's (Commission) decision to deny M.M.'s appeal of the determination of the Assistant Commissioner, Department of Human Services, stating that the appellant failed to present sufficient evidence to support a finding that she had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy). The Court remanded the matter for a hearing at the Office of Administrative Law (OAL). *See In the Matter of M.M., Department of Human Services*, Docket No. A-5949-12T1 (App. Div. May 12, 2015). The court did not retain jurisdiction. Copies of the Appellate Division's decision and the Commission's decision, *In the Matter of M.M.* (CSC, decided June 26, 2013), are attached hereto and incorporated herein.

The facts of this matter are thoroughly discussed in the attached decisions. In the Commission's previous decision, it denied the appellant's appeal of the determination that she had failed to present sufficient evidence to support a finding that she had been subjected to violations of the State Policy. Specifically, the Commission found that an adequate investigation was conducted, and that the investigation failed to establish that the appellant was sexually harassed or retaliated against in violation of the State Policy. The Commission stated that the Department of Human Services' Office of Equal Employment Opportunity appropriately analyzed the available documents in investigating the appellant's complaints and concluded that there was no violation of the State Policy. Moreover, the Commission noted that there was no issue of material fact that required a hearing. *See Belleville v. Department of Civil Service*, 155 N.J. Super. 517 (App.

Div. 1978). The appellant appealed that decision to the Appellate Division. The Appellate Division found that the Commission erred in finding that there were so no dispute of material fact requiring a hearing. Consequently, the Appellate Division vacated the Commission's decision and remanded the matter for a hearing at the OAL.

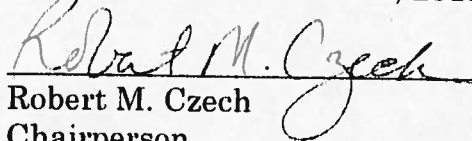
CONCLUSION

Discrimination appeals are treated as reviews of the written record. *See N.J.S.A. 11A:2-6(b)*. Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. *See N.J.A.C. 4A:2-1.1(d)*. In the prior matter, the Commission determined that no material issue of disputed fact had been presented which would warrant a hearing at the OAL. However, the Appellate Division has determined that such a hearing is necessary in order for the parties to have the opportunity to present evidence on the issue of whether the appellant was subjected to violations of the State Policy and for an Administrative Law Judge to evaluate such evidence and assess the credibility of the parties. Therefore, in accordance with the Appellate Division decision, the Commission grants a hearing at the OAL.

ORDER

Therefore, it is ordered that this matter be referred to the OAL for a hearing as a contested case.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF JUNE, 2015


Robert M. Czech
Chairperson
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and
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