

CSC
B-51



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Sanitation Inspector
(M0006P), West New York

Salary Disapproval Order

CSC Docket No. 2015-2461

ISSUED: **JUN 08 2015** (EG)

The appointing authority's failure to dispose of the certification for Sanitation Inspector (M0006P), West New York, while a provisional is serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement.

The Commission has reviewed the salary disapproval issued against the salary of Frank DiBenedetto and has made the following findings of fact:

1. Frank DiBenedetto is currently serving provisionally in the title of Sanitation Inspector.
2. There is a vacancy for the title of Sanitation Inspector, and an outstanding certification was issued on December 9, 2013 from the M0006P eligible list.
3. The certification has not been properly disposed of and the appointing authority was advised of the required date of disposition.
4. The Certification Manager issued a Notice of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such action to the Commission.

5. No such appeal was taken, and no proper disposition of the certification was received; the salary disapproval, therefore, became a final administrative action.
6. By not properly disposing of this certification, the appointing authority is in violation of Civil Service law and rules.

In the instant matter, the appointing authority has refused to properly dispose of the certification issued to fill the vacancy occupied by a provisional employee. The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salary for which there is a salary disapproval is illegal and contravenes Civil Service law and rules.

The appointing authority, despite being given the opportunity, did not submit any arguments or documentation for the Commission's review.

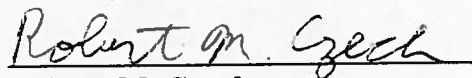
ORDER

The Commission orders the appointing authority to immediately dispose of the outstanding certification by making a permanent appointment of a reachable and interested eligible. Additionally, the appointing authority is ordered to immediately separate any employee serving provisionally pending open competitive examination procedures in the subject title who does not receive an appointment from the outstanding certification. Such disposition must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. If no proper disposition is made within this time period, the Commission orders the constructive appointment of the highest ranked interested eligible. See *N.J.A.C. 4A:10-2.1(a)3; In the Matter of Battalion Fire Chief (PM1640E), Deputy Fire Chief (PM1423H), Atlantic City*, Docket No. A-229-87T7 (App. Div. December 8, 1988).

The Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-3.2(a)5*, to be remitted within thirty (30) days of the issuance of this order. In the event the appointing authority fails to make a good faith effort to fully comply with this order within this time frame, it is additionally ordered that fines be assessed in the amount of one hundred dollars (\$100.00) per day, beginning on the thirty-first day following the issuance of this order and continuing each day of continued violation, up to a maximum of ten thousand dollars (\$10,000.00). See *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2; In the Matter of Fiscal Analyst (M1351H), Highlands*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). This matter will be referred to the Office of the Attorney General for enforcement and for recovery of illegal payments and fines as assessed herein if full compliance is not effected within thirty days.

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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Chairperson
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and
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