



a Senior Boiler Operator and, irrespective of seniority, he does not have rights to Mr. McQueen's position.

In reply, the appellant states that Senior Boiler Operator is not a supervisory position, and "was a made up position under the Supervisor just to help out, not to supervise." He states that his start date was August 3, 1998, while Mr. McQueen's was February 2001. He adds that he is available to work any shift needed, and this layoff was about pensions which is a good faith issue.<sup>1</sup>

### CONCLUSION

In an appeal of this nature, it must be determined whether DAS properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. *See Malone v. Fender*, 80 N.J. 129 (1979). In this case, the appellant was permanent in the title Boiler Operator, and Mr. McQueen was permanent in the title Senior Boiler Operator, which is an actual title in Civil Service classification. As Mr. McQueen is in a higher title, which is considered before seniority, the appellant does not have rights to Mr. McQueen's position. The appellant's availability to work a shift, and any pension issues are irrelevant to this determination. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met his burden of proof in this matter.

### ORDER

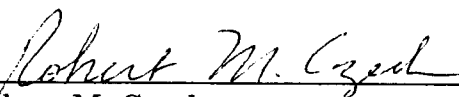
Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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<sup>1</sup> The appellant's good faith appeal has been transmitted to the Office of Administrative Law.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 16<sup>th</sup> DAY OF SEPTEMBER, 2015



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