

B-9



STATE OF NEW JERSEY

In the Matter of Matthew Johnson,
Police Officer (S9999R), Mount
Laurel

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

List Removal Appeal

CSC Docket Nos. 2016-764

ISSUED: **SEP 04 2015** (SLK)

Matthew Johnson appeals the attached determination of the Division of Agency Services (Agency Services) upholding the removal of his name from the eligible list for Police Officer (S9999R), Mount Laurel, on the basis of failure to respond to the Notice of Certification.

By way of background, the subject eligible list promulgated on May 2, 2014, and expires on May 1, 2016. Mr. Johnson's name was listed in the 87th position on certification OL140598 that was issued May 12, 2014. A Notice of Certification (Notice), dated May 22, 2014, was sent to the appellant instructing him that he must write to the appointing authority within five days of the notice date and his failure to do so could possibly result in removal of his name from the list. However, the appellant did not respond. Therefore, in disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that he did not respond to the Notice. Mr. Johnson appealed the matter of the removal of his name to Agency Services, which found that the appointing authority sustained its request.

On appeal, the appellant, a disabled veteran, explains that he applied for the subject examination in order to become a Police Officer in Jefferson Township (Jefferson). He indicates that when he applied for the examination, he only requested that his scores be sent to Jefferson for consideration.¹ The appellant

¹ Agency records provide that the appellant indicated on his application that his preference was to be considered for positions as a Police Officer in communities in Morris and Sussex Counties. However, those preferences only apply to State positions.

presents that he was ranked in the first position on Certification OL140617,² Police Officer, Jefferson that was issued on May 15, 2014 and he immediately notified it of his interest after receiving the Notice. The appellant states that he was ranked in the 87th position on Certification OL140598 and Mount Laurel is located two hours from his home. Consequently, due to his position on the certification, he did not think he was a realistic candidate for that position and did not realize that it was necessary for him to respond. The appellant argues that the Notice does not clearly state that if he did not respond to that particular appointing authority that he would be removed from the Statewide eligible list. He also argues that at the time he received the Notice for Mount Laurel, he had already begun the hiring process with Jefferson, which was another reason why he did not think it was necessary for him to respond.

In response, Mount Laurel has indicated that it has no objection to the appellant's name being restored to the eligible list so that he may be hired by another jurisdiction.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible may be removed from an eligible list for non-compliance with the instructions listed on the notice of certification.

N.J.A.C. 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the instant matter, the appointing authority had sufficient reason to request to remove the appellant's name from the eligible list as Mr. Johnson did not respond to the Notice as instructed. However, the appellant explains that he did not realize that he needed to respond since Mount Laurel is located approximately two hours from his residence and he had indicated on his application that he was only interested in communities much closer to his home, that his name was in the 87th position so he did not think he had a realistic chance of being hired, that he had already begun the employment process with Jefferson, and that, even after reading the Notice, he did not realize that his failure to respond to the certification issued to the appointing authority would remove his name from the Statewide eligible list. Further, Mount Laurel does not object to the appellant's name being restored so that he may be considered for appointment by another jurisdiction.

² Certification OL140617 was cancelled and the vacancy was not filled at that time. Subsequently, Jefferson made two appointments for Police Officer from Certification OL141660; however, the appellant's name was not certified to the appointing authority since his name had been removed from the eligible list. Jefferson is now indicating that it anticipates requesting a new certification within 30 days of August 13, 2015 and that it would consider appellant for a position.

N.J.A.C. 4A:4-4.7(g) provides that when the Commission has accepted a single application for one or more law enforcement title areas, pursuant to *N.J.A.C.* 4A:4-2.3(c), an eligible whose name has been removed from the pool of eligibles for one jurisdiction or title area for cause shall be removed from the pool of eligibles for any other jurisdiction or title area. However, failure to respond to a Notice of Certification for one jurisdiction is not "cause" for removal in a different jurisdiction in the same title. See *In the Matter of Edward J. Mari* (MSB, decided September 7, 2005). Therefore, for equitable reasons, the Commission finds good cause to restore the appellant's name to the subject eligible list for prospective employment opportunities only. The appellant is warned, however, that he must respond to all future Notices or he may be removed from subsequent eligible lists.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the list for Police Officer (S9999R), Statewide, for prospective employment opportunities only. However, Certification OL140598 issued on May 12, 2014 shall not be returned to Mount Laurel for reconsideration. Further, Mr. Johnson's name shall not be added to subsequent certifications, Certification OL141358 issued on October 16, 2014 and Certification OL150484 issued on April 16, 2015, that were issued to Mount Laurel.

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 2nd DAY OF SEPTEMBER, 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: Matthew Johnson
Maureen Mitchell
Kenneth Connolly



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
DIVISION OF AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

July 15, 2015

Matthew J. Johnson	Title: POLICE OFFICER Symbol: S9999R Jurisdiction: Mount Laurel Certification Number: OL140598 Certification Date: 5/12/2014
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Initial Determination: Removal – No Response to Notification of Certification

This is in response to your correspondence contesting the removal of your name from the referenced eligible list.

The Appointing Authority disposed of the certification requesting removal of your name in accordance with *N.J.A.C. 4A:4-4.7(a) 6*, which permits the removal of an eligible candidate's name from the eligible list for non-compliance with the instructions listed on the Notification of Certification.

Specifically, the notice instructed you to write to the Appointing Authority within five (5) days of the notice date. The notice further stated that failure to do so could possibly result in removal of your name from the list.

In your correspondence, you state that you did not respond to this notice because the location of the position was approximately two (2) hours away from your residence. In addition, you did not feel that you were a realistic candidate for the position due to your placement on the certification of 87. You were not aware that your non-response would result in the removal of your name from the Police Officer list for all jurisdictions.

After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your name to the eligible list for Police Officer. The Notification of Certification clearly instructs candidates to provide a written response to the appointing authority. Although you believed you were not a viable candidate for the position, you were still required to notify the Appointing Authority in writing. Therefore, the Appointing Authority's request to remove your name is sustained and your appeal is denied.

In accordance with Merit System Rules, you may appeal this decision to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Matthew J. Johnson

July 15, 2015

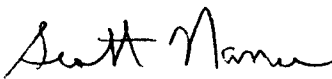
RE: OL140598

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Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees. Address all appeals to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Written Appeals Record Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,
For the Director,


Scott Nance, Supervisor
Local Certifications

c: Maureen P. Mitchell