



**STATE OF NEW JERSEY**

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

In the Matter of Electric Meter  
Worker (M0338V), City of Vineland

CSC Docket No. 2018-2343

Appointment Waiver

**ISSUED:** April 23, 2018 (AMR)

The City of Vineland requests permission not to make an appointment from the August 21, 2017 certification for Electric Meter Worker (M0338V).

The record reveals that the City of Vineland provisionally appointed Thomas Gallo, pending open competitive examination procedures to the subject title, effective January 11, 2017. An examination was announced with a closing date of May 22, 2017 that resulted in a list of 7 eligibles with an expiration date of August 16, 2020. It is noted that Gallo is no longer serving as an Electric Meter Worker and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving. Specifically, it explained that Gallo was provisionally appointed to the subject title to replace an employee who was scheduled to retire. The employee rescinded his retirement and therefore, there is no longer a need to fill this position. Subsequently, Gallo's title has now been changed to Electrician's Helper.

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. However, the appointing authority did not provide any additional information for the Civil Service Commission (Commission) to review.

## 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 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 examination for the subject title was generated as a result of the provisional appointment of Thomas Gallo, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that due to the cancellation of the retirement of the permanent appointee, the Electric Meter Worker position was no longer available. In conjunction with the fact that there are no provisionals currently serving, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, 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 for 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this case, the appointing authority's determination that it no longer needs to fill the position of Electric Meter Worker after it requested an examination for the subject title does not provide a basis on which to waive the selection costs. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process. In this case, the appointing authority has already paid the required selection costs for this exam.

## ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted.

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 18<sup>th</sup> DAY OF APRIL , 2018

*Deirdre' L. Webster Cobb*

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