

STATE OF NEW JERSEY

In the Matter of Kevin McElroy, Fire Protection Inspector, Hamilton Township	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION	N
CSC Docket No. 2019-211	Administrative Appeal	
	ISSUED: August 20, 2018 (RI	E)

The Division of Agency Services, on behalf of Hamilton Township, requests revival of the list for Fire Protection Inspector (M2168N) and retroactive permanent appointment of Kevin McElroy, effective August 25, 2011, and a provisional appointment effective July 18, 2011.

By way of background, McElroy appeared as the first ranked eligible on the list for Fire Protection Inspector (M2168N). However, this list was never certified as Hamilton Township erroneouely assumed a certification would be issued without their request. There was no provisional appointee. Nevertheless, McElroy, began performing the duties of Fire Protection Inspector on July 18, 2011. Although reachable, due to the appointing authority's failure to request a certification, McElroy was not recorded as permanent in the County And Municipal Personnel System (CAMPS). There are no current open-competitive, promotional or special reemployment lists, nor a current announcement for this for this title. In support of its request, Hamilton Township provides documentation verifying that McElroy has been performing the duties of Fire Protection Inspector since July 18, 2011. Agency Services recommends granting a retroactive appointment for McElroy in the title Fire Protection Inspector to August 25, 2011, the date of the promulgation of the list, and a provisional appointment to July 18, 2011, the date he commenced duties of the title. *N.J.A.C.* 4A:4-3.3(b) provides, in pertinent part, that promotional lists shall be promulgated for three years from the date of their establishment. *N.J.A.C.* 4A:4-3.4(a)5 states that the Commission may revive an expired eligible list for good cause. See also *N.J.S.A.* 11A:4-6. *N.J.A.C.* 4A:4-1.10(c) provides that the Commission may order a retroactive appointment date due to an administrative error, administrative delay or other good cause.

CONCLUSION

In the instant matter, there is no basic factual dispute but, rather, the central issue involves reviving an expired promotional employment list in order to effectuate the appointment of McElroy. McElroy has been performing the duties of Fire Protection Inspector since July 18, 2011 and was the highest-ranking eligible remaining on the subject list. Thus, he was reachable under the "rule of three" in accordance with *N.J.A.C.* 4A:4-4.8. Under these circumstances, good cause exists to revive the list and give McElroy a permanent appointment retroactive to August 25, 2011, and a provisional appointment on July 18, 2011. He shall be considered to have commenced his working test period starting on August 25, 2011.

ORDER

Therefore, it is ordered that the request be granted, the M2168N list be revived, Michael McElroy be provided with a permanent appointment as Fire Protection Inspector, effective August 25, 2011, and a provisional appointment on July 18, 2011. McElroy's personnel record should be amended in accordance with this decision.

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 15th DAY OF AUGUST, 2018

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Deirdré L. Webster Cobb Chairperson Civil Service Commission

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