



STATE OF NEW JERSEY

In the Matter of Tyhera Johnson-
Riley, City of Trenton, Police
Department

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2019-1517

Administrative Appeal

ISSUED: FEBRUARY 8, 2019 (BW)

Tyhera Johnson-Riley, a former Public Safety Telecommunicator with the City of Trenton, Police Department requests that the Civil Service Commission (Commission) reinstate the appeal of her removal on charges effective April 10, 2018, which was dismissed based on her failure to participate in a status conference.

The pertinent facts of the matter are as follows: The appellant timely appealed her removal to the Commission which transmitted the matter to the Office of Administrative Law (OAL) as a contested hearing. On July 9, 2018, the OAL sent notice to the parties that the scheduled telephone prehearing date for the matter was July 16, 2018. On July 16, 2018, the appellant participated in the prehearing call indicating she had no discovery and did not know where to start as far as her case was concerned.¹

On August 28, 2018, Administrative Law Judge Judith Lieberman (ALJ), sent the appellant a letter explaining that a telephone status conference was scheduled for August 27, 2018, which was not conducted since the appellant was unavailable at her phone number. The letter noted that a prior status conference scheduled for August 7, 2018 also did not occur as the appellant was no longer on

¹ By letter dated July 12, 2018 to Administrative Law Judge Judith Lieberman, the appellant's prior attorney, George T. Dougherty, Esq., indicated that he did not represent appellant in this case. He also stated that he advised Ms. Johnson-Riley of the teleconference and she was prepared to handle the matter on her own.

the line when the respondent's counsel joined the conference call. The ALJ gave the appellant three additional dates to choose from for a final conference call.

The subsequent status conference was scheduled for September 18, 2018 at 3:30 p.m. When the appellant did not answer calls from counsel or the Court, the ALJ marked the case "failure to appear" and directed its return to the Commission for appropriate disposition. *See N.J.A.C. 1:1-3.3(b) and (c), and N.J.A.C. 1:1-14.4(a).*

On November 20, 2018, the appellant hand delivered a letter to the Commission admitting that she did not take any more calls after the July 16, 2018 telephone prehearing and completely gave up because she was lost in this case without representation. In a letter dated January 17, 2019, George T. Dougherty, Esq., indicated that since the appellant's case was extremely similar to two other cases, it would not be an enormous burden for him to include the appellant as a co-appellant.

In opposition to the appellant's request for reinstatement, the City of Trenton, represented by John P. Harrington, Esq., states that the appellant participated in the status conference on July 16, 2018. It also indicates that appellant failed to provide any responses to interrogatories that were served on her on July 19, 2018 and August 28, 2018. It argues that Harrington was present for the conference calls on August 7, 2018, August 27, 2018 and September 18, 2018 and knows that the OAL made repeated efforts to reach the appellant and provided notice. Further, it contends that the appellant's undated appeal letter that was hand delivered to the Commission on November 20, 2018 provides no substantive explanation for her admitted decision to not participate in her appeal conferences, or her failure to provide any explanation within the 13 days permitted after the issuance of the October 10, 2018 Failure to Appear Notice. Accordingly, it indicates that her appeal is untimely.

CONCLUSION

In the instant matter, the Commission finds that the appellant has not sustained her burden of proof. Specifically, the Commission notes that the appellant's appeal letter acknowledges the status conferences. It is clear from the letter to the appellant from the ALJ that not answering a call for the status conference could result in the return of this matter to the transmitting agency pursuant to *N.J.S.A. 1:1-14.4*. Finally, the Commission finds that the appellant's November 20, 2018 letter indicating that she did not take any more calls because she was completely "lost" contradicts the July 12, 2018 letter to the ALJ from her prior attorney stating the appellant was advised of the status conference and was prepared to handle the matter on her own. Clearly, the appellant chose to ignore the direction of the ALJ regarding the September 18, 2018 status conference. Accordingly, given that the appellant has not presented the Commission with any

substantive evidence to excuse her for not answering the calls, her appeal is dismissed based on her failure to answer the call for the September 19, 2018 status conference. Based on the foregoing, this appeal is denied. Given that this matter has been denied on the merits of the request, the Commission need not address the issue of the timeliness of the appeal.

ORDER

Therefore, it is ordered that Tyhera Johnson-Riley's request to reinstate her appeal be denied and her appeal be dismissed.

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 6TH DAY OF FEBRUARY, 2019



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