



STATE OF NEW JERSEY

DECISION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Brielle DePugh,
Department of Children and Families

Request for Reconsideration

CSC Docket No. 2019-2341

ISSUED: APRIL 17, 2019 (BW)

Brielle DePugh, an Assistant Family Service Worker 1 with the Department of Children and Families (DCF), petitions the Civil Service Commission (Commission) for reconsideration of the attached decision rendered on February 4, 2019, in which the Director of the Division of Appeals and Regulatory Affairs (DARA) denied her request for a hearing with respect to her release at the end of the working test period.

By way of background, a letter of release dated December 13, 2018, was personally served terminating the petitioner at the end of her working test period due to unsatisfactory work performance. As the fax copy of her appeal was received on January 3, 2019, her request for a hearing was denied as it was outside of the 20-day period to appeal.

In her petition for reconsideration, the petitioner states that she spoke to an employee at the Commission who advised her to fax her appeal on January 2, 2019, due to the fact it was the 20th day to appeal, and to call and make sure the fax came through. She states that she called back on January 2, 2019 at 4:15 p.m. and left a voice mail. On January 3, 2019, an appeal was received by fax in the Division of Appeal and Regulatory Affairs. In support of her request for reconsideration, the petitioner submits copies of two fax receipts showing successfully transmission from her e-mail to the appropriate fax number on January 2nd and January 3, 2019.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

N.J.S.A. 11A:2-15, in conjunction with *N.J.S.A.* 11A:2-6a(4), provide that appeals from the release at the end of the working test period must be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. *See also*, *N.J.A.C.* 4A:2-4.2(a). This 20-day time limitation is jurisdictional and cannot be relaxed or waived. *See Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); *See also*, *Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978).

In the instant matter, the petitioner provided a fax receipt that indicates her appeal was sent successfully on January 2, 2019 from her e-mail to the appropriate fax number. Accordingly, under these particular circumstances, the Commission finds that the petitioner appealed her release at the end of the working test period within 20 days of receipt of the letter of release and is therefore entitled to a hearing at the Office of Administrative Law.

This decision is limited to the unique facts presented in this matter and it should not be used as a precedent in any other matter.

ORDER

Therefore, it is ordered that this petition be granted and the matter be referred to the Office of Administrative Law for a hearing.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17TH DAY OF APRIL, 2019



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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and
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Attachment

c: Brielle DePugh
Department of Children and Families
Kelly Glenn
Beth Wood (with file)
Records Center

DECISION RENDERED BY THE
DIRECTOR, DIVISION OF APPEALS
AND REGULATORY AFFAIRS

ON

2/5/19



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