



**STATE OF NEW JERSEY**

In the Matter of A.M.D., Fire Fighter  
(M1863W), City of Paterson

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

CSC Docket No. 2021-1741

Medical Review Panel Appeal

**ISSUED: JANUARY 21, 2022  
(DASV)**

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A.M.D., represented by Lauren Sandy, Esq., appeals her rejection as a Fire Fighter candidate by the City of Paterson and its request to remove her name from the eligible list for Fire Fighter (M1863W) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was referred for independent evaluation by the Civil Service Commission (Commission) in a decision rendered October 6, 2021, which is attached. The Commission indicated that the Medical Review Panel (Panel) was unable to render a determination regarding the appellant’s psychological suitability. A copy of the record, which included police reports that the Panel requested, was forwarded to the Commission’s independent evaluator Dr. Robert Kanen, who rendered a Psychological Evaluation and Report on December 14, 2021. No exceptions or cross exceptions were filed by the parties.

The Psychological Evaluation and Report by Dr. Kanen discusses the evaluation procedure and reviews the previous psychological findings relative to the appellant. In addition to reviewing the reports and test data submitted by the previous evaluators, Dr. Kanen administered the following: Clinical Interview/Mental Status Examination; Shipley Institute of Living Scale; Public Safety Application; Behavioral History Questionnaire, and the Inwald Personality Inventory – II. Upon his interview of the appellant and based on the test results, Dr. Kanen found that the appellant was functioning within “normal ranges” and had no psychopathology or personality problems that would interfere with her work performance. Although the appellant had been in counseling and had taken medication for anxiety and depression, Dr. Kanen determined that there was no evidence that the appellant had clinical anxiety or depression. The appellant demonstrated high average intelligence

and a strong work ethic, having experience in various public safety positions. Regarding the police reports, Dr. Kanen noted that the incidents did not reflect that the appellant had psychological or personality problems or a borderline personality disorder. In particular, the appellant's boyfriend misunderstood a text message. The appellant was not suicidal. Although Dr. Kanen indicated that, on personality testing, the appellant was defensive and guarded, her clinical scales were within normal ranges and that her ranking may have been lowered due to admitting to being previously terminated from employment and being in counseling. Dr. Kanen stated that these issues were "not a reflection of work performance problems," and "counseling is taken as a positive sign." Based on his evaluation, Dr. Kanen concluded that the appellant was psychologically suited for employment as a Fire Fighter.

### CONCLUSION

The Job Specification for the title of Fire Fighter is the official job description for such positions within the Civil Service system. According to the specification, Fire Fighters are entrusted with the safety and maintenance of expensive equipment and vehicles and are responsible for the lives of the public and other officers with whom they work. Some of the skills and abilities required to perform the job include the ability to work closely with people, including functioning as a team member, to exercise tact or diplomacy and display compassion, understanding and patience, the ability to understand and carry out instructions, and the ability to think clearly and apply knowledge under stressful conditions and to handle more than one task at a time. A Fire Fighter must also be able to follow procedures and perform routine and repetitive tasks and must use sound judgment and logical thinking when responding to many emergency situations. Examples include conducting step-by-step searches of buildings, placing gear in appropriate locations to expedite response time, performing preparatory operations to ensure delivery of water at a fire, adequately maintaining equipment and administering appropriate treatment to victims at the scene of a fire, *e.g.*, preventing further injury, reducing shock, and restoring breathing. The ability to relay and interpret information clearly and accurately is of utmost importance to Fire Fighters as they are required to maintain radio communications with team members during rescue and firefighting operations.

In the present matter, the Commission referred the appellant for an independent psychological evaluation. Dr. Kanen performed additional tests necessary to determine the appellant's psychological fitness for a Fire Fighter position and reviewed police reports to assess whether the appellant had underlying issues that would render her psychologically unsuited for the position. Dr. Kanen found that the appellant is functioning within "normal ranges" and does not possess psychopathology or personality problems that would interfere with her work performance. Dr. Kanen deemed the appellant's prior job termination not to be a reflection of "work performance problems" and her previous counseling to be "a

positive sign.” Moreover, the information contained in the police reports did not evidence that the appellant possessed psychological or personality problems or a borderline personality disorder. Dr. Kanen also highlighted the appellant’s work ethic and the various public safety positions she has held. Accordingly, Dr. Kanen found the appellant to be psychologically suited for a Fire Fighter position.

Therefore, having considered the record and the independent Psychological Evaluation and Report issued thereon, and having made an independent evaluation of the same, including a review of the Job Specification for the position sought, the Commission accepts and adopts the findings and conclusions as contained in the independent Psychological Evaluation and Report and orders that the appellant’s appeal be granted. The Commission is mindful that any potential behavioral or work performance issues can be addressed during the appellant’s working test period as a Fire Fighter.

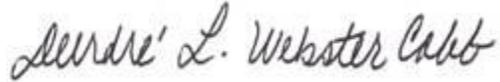
### ORDER

The Commission finds that the appointing authority has not met its burden of proof that A.M.D. is psychologically unfit to perform effectively the duties of a Fire Fighter and, therefore, the Commission orders that the appellant’s name be restored to the subject eligible list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant’s appointment is otherwise mandated. A federal law, the Americans with Disabilities Act (ADA), 42 U.S.C.A. §12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission’s *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of her working test period, the Commission orders that the appellant be granted a retroactive date of appointment to April 5, 2021, the date she would have been appointed if her name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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 19<sup>TH</sup> DAY OF JANUARY, 2022



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