



STATE OF NEW JERSEY

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

In the Matter of Gary Irvin,
Fire Captain (PM2314C),
Asbury Park

CSC Docket No. 2022-2496

Examination Appeal

ISSUED: May 2, 2022 (RE)

Gary Irvin appeals the denial of his request for a make-up examination for Fire Captain (PM2314C) Asbury Park.

The appellant was originally scheduled to take the multiple-choice portion of the subject examination on October 2, 2021. He arrived at the test center, but did not take the test. The Center Supervisor noted that he was “experiencing symptoms” and needed a make-up examination. On December 28, 2021, the appellant requested a make-up examination saying that he checked in and was in a classroom when the monitor asked if anyone was sick. He stepped into the hallway and spoke with a hallway monitor, stating that he recently had been in and out of the hospital. He states that the monitor said he did not have to take the test that day because of his illness and he would be contacted with a make-up date and time. He states that he waited for his notification and did not receive one, so he filed a request for a make-up examination. No medical documentation was attached. The Division of Administrative Services (Administrative Services) denied this request as it did not meet that criteria listed in *N.J.A.C. 4A:4-2.9(b)*. It is noted that 15 candidates were admitted, the examination has been held, but the results are not yet available.

On appeal, the appellant provided a completed Medical Authorization form. The physician checked the box that the appellant could not take the examination with special accommodations. He included a letter which indicated that a medical diagnosis was undetermined, but included testing dates. The appellant underwent testing the month before the examination, three days later, and two months later.

CONCLUSION

N.J.A.C. 4A:4-2.9(b) provides, in pertinent part, that for professional level engineering, police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety promotional examinations, make-ups may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;
2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;
3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation;
4. When required for certain persons returning from military service (see *N.J.A.C.* 4A:4-4.6A); or
5. Error by the Civil Service Commission or appointing authority.

N.J.A.C. 4A:4-2.9(e) provides, in pertinent part, that a candidate must submit a written request for a make-up examination within five days after the examination date due to one of the valid reasons set forth.

The record establishes that the appellant was scheduled to take the multiple-choice portion of the examination on October 2, 2021, and did not do so. The appellant requested a make-up examination almost three months later, stating that the hallway monitor had indicated that he did not have to take the test that day because of his illness and he would be contacted with a make-up date and time. The hallway monitor was actually the Center Supervisor. The Center Supervisor was contacted about the matter and indicated that no candidate is told that they will be contacted with a make-up date and time. Candidates who cannot take the examination are given the phone number of the make-up unit, and told to file a make-up request. The make-up request information is also listed on the notification card, the orientation guide, and on the Civil Service Commission's website. The appellant's request was filed almost three months after the examination, and therefore, pursuant to *N.J.A.C.* 4A:4-2.9(e), this appeal is untimely.

Regardless, the reason provided by the physician is inadequate. The physician was instructed to provide a clear statement indicating why the candidate's physical condition precluded him from taking the examination as scheduled. The physician responded simply that the candidate was undergoing testing. This is insufficient to establish that the appellant could not have taken the examination as scheduled.

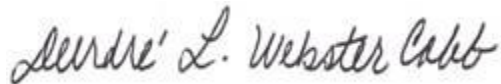
A thorough review the record indicates that the appellant has failed to support his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

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 27TH DAY OF APRIL 2022



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