



**STATE OF NEW JERSEY**

In the Matter of Barbara Fay, Orange  
Public Library

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

CSC Docket No. 2023-924

Enforcement

**ISSUED:** December 21, 2022 (SLK)

Barbara Fay, a Librarian 1 with the Orange Public Library (Library), represented by Patricia A. Villanueva, Esq., requests enforcement of *In the Matter of Barbara Fay* (CSC, decided August 3, 2022).

By way of background, Fay, a Librarian 1, was laid off on August 13, 2021 in violation of statutory and regulatory provisions regarding layoffs. While the Library seemed to believe that because Fay was a part-time employee that it did not need to follow Civil Service layoff procedures, this is not the case. Therefore, in *In the Matter of Barbara Fay* (CSC, decided August 3, 2022), the Civil Service Commission (Commission) ordered the Library to submit a layoff plan to Division of Agency Services (Agency Services) for approval and determination of layoff entitlements regarding the August 13, 2021, layoff of Fay from her position of Librarian 1 within 20 days of receipt of that decision. It further ordered that the Library pay Fay 45 days' pay for its failure to provide her with adequate notice of the layoff. Additionally, it indicated that if Fay's layoff was not approved by Agency Services, the Library was directed to immediately reinstate Fay to her former position or the position to which she was entitled with mitigated back pay commensurate with the title, applicable benefits, and seniority from the time she was separated on August 13, 2021, to the date of her reinstatement. Alternatively, it ordered that if Fay's layoff was approved by Agency Services, her CAMPS record was to be amended accordingly. Further, the Commission stated that in the event that the Library did not make a good faith effort to comply with its decision within 20 days of its issuance, the Commissions ordered

that a fine be assessed against the Library in the amount of \$100 per day, beginning on the 21<sup>st</sup> day from the issuance of this decision, and continuing for each day of continued violation, up to a maximum of \$10,000.

In her request, Fay states that the Library has not complied with the Commission's decision. She presents that she contacted the Library's counsel to see if it had submitted a layoff plan to Agency Services as ordered, but it did not respond. Additionally, Fay indicates that she contacted Agency Services to see if the Library submitted a layoff plan, and it confirmed that the Library had not. She requests back pay, applicable benefits, and seniority from the time she was separated on August 13, 2021, until her reinstatement. Fay also alleges that another employee was laid off by the Library on September 19, 2022, in violation of Civil Services law and rules. She contends that the Library has not made a good faith effort to comply with the Commission's order.

In response, the Library, represented by Dan S. Smith, Esq., submits two exhibits to show that Fay worked less than 20 hours per week, with no deductions for standard Federal and state taxes. Further, it indicates that she was never enrolled in the Orange Pension System. Therefore, the Library argues that Fay's rights were limited, and she was an at-will employee.

In reply, Fay reiterates her request that the Commission find that the Library improperly laid her off and be fined in accordance with the Commission's prior decision. She requests that the Library be ordered to immediately reinstate her with mitigated back pay commensurate with her title, as well as applicable benefits and seniority from her August 13, 2021, separation until her reinstatement.

## CONCLUSION

In the Commission's prior August 3, 2022, decision, it noted that while the Library seemed to believe that because Fay was a part-time employee that it did not need to follow Civil Service layoff procedures, this was not the case. Therefore, the Commission ordered the Library to submit a layoff plan to Agency Services for approval and determination of layoff entitlements to Agency Services regarding the August 13, 2021, layoff of Barbara Fay from her position of Librarian 1 within 20 days of receipt of this decision. Despite the Commission's order, the Library apparently continues to mistakenly believe that since Fay worked less than 20 hours per week and was not enrolled in its pension system, she was an employee at-will. However, a review of personnel records indicate that Fay received a permanent appointment as a Library Associate, effective December 17, 2008<sup>1</sup> and, thereafter, she was promoted to Librarian 1, effective January 1, 2019. The number of hours worked and enrollment in a pension system have no bearing as to whether one is

---

<sup>1</sup> Fay was originally provisionally appointed as a Library Reference, effective April 14, 2005. However, as a provisionally appointee, she could have been removed at any time until her permanent appointment.

considered a permanent Civil Service employee, entitled to the rights and protections under Civil Service law and rules.

Further, in the prior decision, the Commission indicated that it is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service laws or rules or any order of the Commission. *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2. See In the Matter of Fiscal Analyst (M1351H), Newark, Docket No. A-4347-87T3 (App. Div. 1989).* Additionally, the Commission warned that if the Library did not make a good faith effort to comply with this decision within 20 days of issuance of this decision, the Commission would order that a fine be assessed against the Library in the amount of \$100 per day, beginning on the 21<sup>st</sup> day from the issuance of this decision, and continuing for each day of continued violation, up to a maximum of \$10,000. The record indicates that it has been more than 100 days from the 21<sup>st</sup> day from the issuance of the Commission's decision<sup>2</sup>; yet the Library has still failed to submit a layoff plan to Agency Services as ordered. The Library's deliberate indifference to compliance with Civil Service law and rules expected of all local governments warrants a severe penalty. Therefore, the Library is ordered to pay a fine of \$10,000 for noncompliance with the Commission's order to submit a layoff plan as indicated in *Fay, supra*, within 30 days of the issuance date on this decision.

Additionally, the Library is ordered to submit a layoff plan to Agency Services for approval and determination of layoff entitlements to Agency Services regarding the August 13, 2021, layoff of Barbara Fay from her position of Librarian 1 within 20 days of receipt of this decision. If Fay's layoff is approved by Agency Services, her CAMPS record shall be amended accordingly. However, the Library shall pay Fay 45 days' pay for its failure to provide her with adequate notice of the layoff within 20 days of receipt of the approval from Agency Services. In the alternative, if Fay's layoff is not approved by Agency Services, the Library is directed to immediately reinstate Fay to her former position or the position to which she is entitled with mitigated back pay commensurate with the title, applicable benefits, and seniority from the time she was separated on August 13, 2021, to the date of her reinstatement. No other remedies are provided.

### **ORDER**

Therefore, it is ordered that this request be granted in part, and the Orange Public Library is ordered to submit a layoff plan to Agency Services for approval and determination of layoff entitlements regarding the August 13, 2021, layoff of Barbara Fay from her position of Librarian 1 within 20 days of receipt of this decision. If Agency Services approves the plan, Fay's CAMPS record shall be amended accordingly, and the Library shall compensate Fay with 45 days' pay within 20 days

---

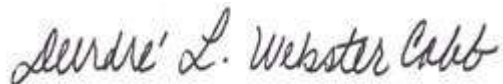
<sup>2</sup> The 21<sup>st</sup> day from the Commission's August 3, 2022, decision was August 24, 2022. A \$100 per day fine for 100 days, or until December 2, 2022, equals the \$10,000 maximum fine.

of receipt of the approval. If Agency Services does not approve of the plan, the Library is directed to immediately reinstate Fay with mitigated back pay from August 21, 2021, until her reinstatement. Additionally, for the reasons stated above, the Library is assessed a fine in the amount of \$10,000 to be paid within 30 days of receipt of this decision.

If at any time the Library does not adhere to the time frames as set forth in this decision without an approved extension of time, this matter will be referred to the Office of the Attorney General for enforcement and recovery of fines and further costs and penalties as provided by law.

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 21<sup>st</sup> DAY OF DECEMBER, 2022



---

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Nicholas F. Angiulo  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: Barbara Fay  
Patricia A. Villanueva, Esq.  
David McKnight  
Dan S. Smith, Esq.  
Division of Agency Services  
Division of Appeals and Regulatory Affairs  
Records Center