



STATE OF NEW JERSEY

In the Matter of A.D., Meadowview Psychiatric Hospital, Hudson County, Division of Health and Human Services	:	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION
	:	
	:	
CSC Docket No. 2022-1887	:	Request for Reconsideration
	:	
	:	
	:	

ISSUED: JUNE 20, 2022 (HS)

A.D., a former Hospital Attendant with Meadowview Psychiatric Hospital (Meadowview), Hudson County, Division of Health and Human Services, represented by Arnold Shep Cohen, Esq., petitions the Civil Service Commission (Commission) for reconsideration of the attached final administrative decision, rendered on January 28, 2022, in which the Director of the Division of Appeals and Regulatory Affairs denied her request for a hearing with respect to her removal.

By way of background, in a December 3, 2021 Final Notice of Disciplinary Action (FNDA), the petitioner was removed, effective that same date, on various charges. Specifically, the appointing authority asserted that the petitioner had not returned to work following an approved leave and had thus abandoned her job. The record indicates that the FNDA was sent by certified mail on December 8, 2021 to an address bearing house number 233 (hereinafter referred to as “233” or “233 address”). The tracking record of the certified mail shows delivery was made on December 10, 2021. By letter postmarked January 10, 2022, the petitioner submitted an appeal to the Commission. However, since the petitioner did not submit her appeal within 20 days of receipt of the FNDA, the request for a hearing was denied.

In her request for reconsideration, the petitioner presents the following narrative in a certified statement:

- The petitioner has been living in a new city for eight years.

- When she began her employment with Meadowview, she was living at an address bearing house number 232 (hereinafter referred to as “232”). When she moved to a new city, she notified Meadowview of the new address.
- On or about January 8, 2022, she received a call from her sister at 232, who stated that a package was there for her. Her sister told her that the neighbor, who resided at 233, had delivered the package for her. The neighbor stated the package was left in the neighbor’s mailbox.
- On or about January 9, 2022, the petitioner collected the package from 232. In the package was the FNDA. The petitioner immediately notified her union representative, who filed an appeal on January 10, 2022.
- The petitioner never provided the 233 address to her employer. Meadowview mailed the FNDA to an incorrect address.

In response, the appointing authority, represented by Nidara Y. Rourk, Assistant County Counsel, acknowledges that sending the FNDA to 233 was an administrative error. However, it notes that on or about August 23, 2021, it sent the petitioner a letter to 233 warning that she may be found to have abandoned her job. Although the address was off by one digit (233 instead of 232), the letter was signed for and delivered. On August 31, 2021, the petitioner responded by e-mail to the letter, stating “I received this letter at the end of August 2021 . . . stating that I was going to be recorded of not being in good standing.”¹ The appointing authority notes that on or about November 8, 2021, it sent a Preliminary Notice of Disciplinary Action (PNDA) to the petitioner, again using 233. On or about December 3, 2021, the appointing authority held a hearing on the PNDA and the petitioner was present and provided testimony. On December 8, 2021, the appointing authority sent the FNDA to the petitioner using 233, as already noted.

The appointing authority maintains that the petitioner received all correspondence in a timely fashion as evidenced by her response to the August 23, 2021 correspondence and appearance at her disciplinary hearing. The appointing authority also disputes that the petitioner advised it of her move to the new city. It states that for years, the petitioner’s correspondences, biweekly paychecks, and W2 forms were addressed to 232, yet the petitioner never corrected the alleged error by contacting the appointing authority. The appointing authority also emphasizes that the petitioner’s union representative, who filed the appeal, received the FNDA via e-mail on December 7, 2021. In support, the appointing authority submits, among other exhibits, the petitioner’s employee profile showing 232 as her address.

¹ In the e-mail, the petitioner also provided a phone number and e-mail address, but not a mailing address, where she could be contacted.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. 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. A review of the record in the instant matter reveals that reconsideration is not justified.

N.J.S.A. 11A:2-15 provides that appeals from major disciplinary matters be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. 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). Further, *N.J.A.C.* 4A:2-2.8(a) states that “An appeal from a Final Notice of Disciplinary Action must be filed within 20 days of receipt of the Notice by the employee. Receipt of the Notice on a different date by the employee’s attorney or union representative shall not affect this appeal period.”

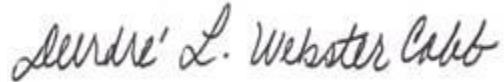
Although the appointing authority has acknowledged that sending the December 2021 FNDA to 233 was an administrative error, that is not the end of the matter. In that regard, the Commission cannot ignore that the petitioner received and responded to two important earlier mailings—the August 2021 job abandonment warning letter and the November 2021 PNDA—that had also been addressed to 233. Crucially, there is no evidence that in responding to those items, the petitioner advised the appointing authority that they had been mailed to an incorrect address. For instance, in the petitioner’s August 31, 2021 e-mail responding to the job abandonment warning letter, she provided a phone number and an e-mail address but made no mention of the address issue. Accordingly, the petitioner now cannot benefit from the appointing authority’s admitted administrative error in sending the FNDA to 233 when she had opportunities in the preceding months to raise and clarify the address issue but failed to do so. Even assuming, as the petitioner claims, that she informed Meadowview of her new address when she moved to the new city, such communication would have occurred *eight years* ago, in the petitioner’s telling. Thus, the petitioner’s reliance on that communication is unavailing since, as already discussed, she did not address the issue *in 2021*. Given that lack of communication, there is no alternative except to effectively deem 233 the petitioner’s address for purposes of receiving the FNDA. And as already noted, the FNDA was delivered there on December 10, 2021 with the appeal not being postmarked until January 10, 2022. Under these circumstances, the petitioner did not meet the 20-day filing requirement, and she has not presented a basis to grant a hearing. Accordingly, the petitioner has not met the standard for reconsideration.

ORDER

Therefore, it is ordered that this request for reconsideration 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 15TH DAY OF JUNE 2022



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: A.D.
Arnold Shep Cohen, Esq.
Elinor Gibney
Louis Rosen, Deputy County Counsel
Nidara Y. Rourk, Assistant County Counsel
Division of Agency Services
Records Center



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of A [REDACTED] D [REDACTED]
Meadowview Psychiatric Hospital,
Hudson County, Division of Health
and Human Services

CSC DKT. NO. 2022-1650

Hearing Denied

ISSUED: FEB 01 2022 BW

The Civil Service Commission considered the request for a hearing concerning A [REDACTED] D [REDACTED], a Hospital Attendant, Meadowview Psychiatric Hospital, Hudson County, Division of Health and Human Services, from her appeal of removal, and made the following findings of fact:

1. The Final Notice of Disciplinary Action (FNDA) was served December 10, 2021 to the appellant.
2. The letter of appeal was postmarked January 10, 2022.

Since the appeal in this matter was not perfected within 20 days of receipt of the FNDA, the request for a hearing was denied. As this time period is statutory, it cannot be relaxed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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

ON 1/28/22



ALLISON CHRIS MYERS
DIRECTOR

Inquiries
And
Correspondence

Allison Chris Myers
Director
Division of Appeals and Regulatory Affairs
Hearings Unit
PO Box 312
Trenton, NJ 08625-0312

c: A [REDACTED] D [REDACTED]
Meadowview Psychiatric Hospital, Hudson Co., Dept. of Health & Human Services
Arnold S. Cohen, Esq.
Agency Services
Pensions