



STATE OF NEW JERSEY

In the Matter of Casey Olohan, Fire
Fighter (M1845W), Kearny

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

CSC Docket No. 2023-715

List Removal Appeal

ISSUED: May 3, 2023 (HS)

Casey Olohan, represented by John D. Feeley, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M1845W), Kearny on the basis of failure to meet the residency requirement.

The appellant, a non-veteran, took and passed the open competitive examination for Fire Fighter (M1845W), which had a closing date of August 31, 2018. The resulting eligible list promulgated on March 29, 2019 and expired on March 28, 2023.¹ The appellant’s name was certified to Kearny on February 10, 2022. In disposing of the certification, Kearny requested the removal of the appellant’s name on the bases of failure to meet the residency requirement and failure to complete preemployment processing. Specifically, Kearny asserted that the appellant did not maintain continuous residency in Kearny or Newark from the examination closing date. In support, Kearny submitted copies of the following: 2019, 2020 and 2021 Form W-2s issued by employer 1122 Rt. 22 Mountainside LLC showing a Scotch Plains address; 2019 Form W-2 issued by employer State of New Jersey showing a Springfield address; and a March 6, 2022 Experian credit report showing Newark addresses as part of the appellant’s “Address History” and showing the Scotch Plains address as his “Current Address.” Additionally, the appointing authority asserted that the appellant’s preemployment application was incomplete as he did not provide requested character reference information; dates of school attendance; payroll

¹ The list was extended one year.

paycheck/stubs for two payrolls six months prior to certification date; and bank statements for all debit/credit cards for the past three months.

On appeal to the Civil Service Commission (Commission), the appellant offers several documents that he maintains confirms his residency.

In response, Kearny, represented by Kyle J. Trent, Esq., concedes that some of the appellant's submitted information suggests that he lived in Newark but insists that overwhelming evidence reflects that the appellant resided in Scotch Plains during the relevant timeframe. Kearny highlights that on page four of the preemployment application, the appellant stated that he lived with his father in Newark from June 2018 through the present. However, on page 13 of the application, the appellant identified his father's current address as being in Scotch Plains. Kearny reiterates that a Scotch Plains or Springfield address appears on the W-2s and Experian credit report discussed above. It adds that mortgage statements for the Scotch Plains property dated 2022 listed the appellant's address as Scotch Plains and reflected that the appellant was a mortgagee along with his father. Kearny provides supporting exhibits, which include a complete copy of the appellant's preemployment application.

In reply, the appellant provides an affidavit in which he states the following. The 2019 Form W-2 issued by employer State of New Jersey was for a position held with the Forest Fire Service. When he learned that the W-2 contained the wrong address, he attempted to correct in January 2018 and again in 2019 by writing a letter to Division A Headquarters in Andover Borough. From there, the information was supposed to be sent to the Department of the Treasury. However, for reasons unknown to the appellant, the change request was never processed. Concerning the other W-2s, the appellant used the Scotch Plains address due to a problem with mail theft in his Newark neighborhood. Consequently, he had all of his paychecks mailed to the Scotch Plains address. The appellant also states that he and his father bought the Scotch Plains property, a one-bedroom apartment, as an investment property. When they first bought the property, his father lived there while he was doing renovations. That is why the appellant wrote on the application that his father was living in Scotch Plains.

CONCLUSION

N.J.A.C. 4A:4-2.11(c) provides, in pertinent part, that where residence requirements have been established in local service, residence means a single legal residence. The following standards shall be used in determining local legal residence:

1. Whether the locations in question are owned or rented;

2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner (see section 4 of P.L. 2003, c. 246), a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by child(ren) living with the individual is the same as the claimed residence.

N.J.A.C. 4A:4-2.11(e)1 states that unless otherwise specified, residency requirements shall be met by the announced closing date for the examination. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

Upon review of the record, the Commission finds that the appellant has not convincingly shown that he maintained continuous residency in Newark from the August 31, 2018 examination closing date. In this regard, the standards to be used in determining local legal residence include whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. *See N.J.A.C.* 4A:4-2.11(c)5. Several of the appellant's W-2s for tax years 2019-2021 reflected addresses outside the residency scope. On appeal, the appellant claims that he wrote a letter to the Forest Fire Service concerning the allegedly incorrect Springfield address recorded on his 2019 W-2 issued by the State of New Jersey but that his change request was never processed. However, the appellant does not provide a copy of the referenced

letter. As to the other W-2s in question, those issued by 1122 Rt. 22 Mountainside LLC for tax years 2019-2021, the appellant claims that these show the Scotch Plains address because he was using that address to receive paychecks due to mail theft problems in his Newark neighborhood. However, these W-2s cover a three-year period, and there is no indication whether the appellant lodged contemporaneous reports of mail theft with appropriate authorities, such as the United States Postal Service. It also strains credibility to suggest that the appellant was receiving physical paychecks at a location he insists was an investment property and not his residence. Further concerning the Scotch Plains property, the 2022 mortgage statements for the property listed the appellant's *own* address as being the Scotch Plains property. It also cannot be ignored that as of March 2022, the appellant's credit report showed Newark addresses as part of the appellant's "Address *History*" but showed the Scotch Plains address as his "*Current Address*" (emphases added). Given the inconsistencies in the appellant's documents, the Commission cannot conclusively find that the appellant maintained continuous residency in Newark and is constrained to find that he has not met his burden of proof to show that Kearny's decision to remove his name from the eligible list was in error.


In light of the foregoing, it is unnecessary to determine whether the appellant failed to complete preemployment processing.

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 3RD DAY OF MAY, 2023



Allison Chris Myers
Acting 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: Casey Olohan
John D. Feeley, Esq.
Stephen Marks
Kyle J. Trent, Esq.
Division of Human Resource Information Services