



STATE OF NEW JERSEY

In the Matter of Wanda Downing,  
Irvington Housing Authority

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2023-1492

Administrative Appeal

ISSUED: May 3, 2023 (SLK)

Wanda Downing, a Tenant Relations Assistant, represented by Arnold Shep Cohen, Esq., appeals her separation from employment, effective December 31, 2022, with the Irvington Housing Authority (IHA).

On appeal, Downing presents a November 9, 2022, letter from the IHA which indicates that she was laid off, effective December 31, 2022<sup>1</sup>. The letter states that because the IHA procured new software which modernizes how it handles work orders, her work is no longer necessary. The letter also states that under the Annual Contributions Contract with the United States Department of Housing and Urban Development (HUD) and the provisions of the United States Housing Act, the Secretary of HUD, or its designee, has taken possession of the IHA. Further, it indicated since her separation from employment was taken in accordance with HUD's possession of the IHA, Downing has no right to appeal to any other level or body of this action. Downing asserts that her layoff was not in good faith as it ignored Civil Service protection and seniority right. She argues that the IHA incorrectly claims that it is no longer covered by Civil Service layoff requirements.

Although given the opportunity, the IHA did not respond in this matter.

CONCLUSION

<sup>1</sup> Personnel records indicate that Downing's employment with the IHA began July 16, 1993.

In this matter, Downing, a Tenant Relations Assistant, was laid off on December 31, 2022, in violation of statutory and regulatory provisions regarding layoffs. While the IHA seems to believe that because the Secretary of HUD, or its designee, has taken possession of the IHA that it did not need to follow Civil Service layoff procedures, it has not responded to this appeal and provided documentation to support this belief. The Civil Service Commission (Commission) finds that this is not the case.

In this regard, permanent employees may be laid off for economy, efficiency or other related reasons. *See N.J.S.A. 11A:8-1a and N.J.A.C. 4A:8-1.1(a)*. Additionally, *N.J.A.C. 4A:8-1.1(b)* provides that this agency shall determine seniority and shall designate lateral, demotional and special reemployment rights for all career service titles prior to the effective date of the layoff and have such information provided to all affected parties. Furthermore, pursuant to *N.J.A.C. 4A:8-1.4(a)*, an appointing authority must provide this agency with a layoff plan at least 30 days prior to the issuance of layoff notices. The layoff plan must include, among other things, the reason for the layoff, the projected effective date of the layoff, details regarding positions, titles and employees to be affected, alternatives to layoff and pre-layoff actions taken, and a summary of consultations with affected negotiations representatives. Through this plan, this agency ensures that the appointing authority provides all of the required information and has done everything it is legally obligated to do. If the information is lacking, this agency may take such remedial action as requiring the submission of supplemental information or the implementation of alternatives to layoff or pre-layoff actions. *See N.J.A.C. 4A:8-1.4(d)*.

In the instant matter, the IHA failed to follow the established layoff procedures. It did not submit a layoff plan to this agency for approval prior to Downing's layoff, which delineated the reason for the layoff, the projected date of the layoff, the number of position affected, the names of employees to be affected, and the explanation of all alternative and pre-layoff actions that have been taken and considered. There is also no showing that affected negotiations representatives were given notice. Indeed, this agency did not receive a copy of any notice at that time.

Therefore, it is ordered that the IHA submit a layoff plan to the Division of Agency Services (Agency Services) within 20 days of receipt of this decision, detailing the reasons for the December 31, 2022, layoff of Downing, as well as submitting the required information outlined in *N.J.A.C. 4A:8-1.4(a)*. Should Agency Services disapprove the layoff plan or find that Downing's layoff was improper based on her title rights, the IHA is ordered to immediately reinstate Downing to her 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 December 31, 2022, to the date of her reinstatement. However, if Agency Services approves the

layoff plan and determines that Downing did not have any displacement rights, Downing shall be considered laid off from her position, effective December 31, 2022, and her County and Municipal Personnel System (CAMPS) record shall be amended accordingly.<sup>2</sup>

Although the Commission is permitting the appointing authority to correct the procedural errors present in this matter, the Commission advises the IHA that it may be subject to fines if it fails to comply with this order. In this regard, the Commission 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)*. In this case, the Commission is disturbed that the IHA laid off Downing from her position, yet it failed to comply with any of the procedural requirements for layoff. Accordingly, the Commission orders the IHA to comply with Civil Service law and rules.

### **ORDER**

Therefore, it is ordered that the appeal be grant in part and the Irvington Housing Authority submit a layoff plan to Agency Services for approval and determination of layoff entitlements to Agency Services regarding the December 31, 2022, layoff of Wanda Downing from her position of Tenant Relations Assistant within 20 days of receipt of this decision. Additionally, if Downing's layoff is not approved by Agency Services, the IHA is directed to immediately reinstate Downing 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 December 31, 2022, to the date of her reinstatement. Alternatively, if Downing's layoff is approved by Agency Services, her CAMPS record shall be amended accordingly,

In the event that the IHA has not made a good faith effort to comply with this decision within 20 days of issuance of this decision, the Commissions orders that a fine be assessed against the IHA 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.

---

<sup>2</sup> If Agency Services approves Downing's layoff, she may then file an appeal of the good faith of her layoff at that time.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 3<sup>RD</sup> DAY OF MAY, 2023

*Allison Chris Myers*

---

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: Wanda Downing  
Arnold Shep Cohen, Esq.  
Megan Chambers  
Martha Rodriguez  
Leonard Spicer  
Division of Agency Services  
Records Center