



STATE OF NEW JERSEY

In the Matter of Kyle Heck, Fire
Fighter (M2201D), Atlantic City

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

CSC Docket No. 2024-1766

List Removal Appeal

ISSUED: August 14, 2024 (HS)

Kyle Heck, represented by Stuart J. Alterman, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M2201D), Atlantic City on the basis of an unsatisfactory driving record.

The appellant, a non-veteran, took and passed the open competitive examination for Fire Fighter (M2201D), which had a closing date of August 31, 2022. The resulting eligible list promulgated on April 28, 2023 and expires on April 27, 2025. The appellant's name was certified to the appointing authority on August 10, 2023 (OL231028). In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of an unsatisfactory driving record. Specifically, the background investigation had revealed the following violations: unsafe operation of vehicle (January 2, 2005); obstructing passage of other vehicle (February 20, 2005); violation of restrictions on provisional driver's license (February 20, 2005); failure to possess driver's license or registration (May 27, 2014); driving or parking unregistered motor vehicle (September 30, 2019); careless driving (July 26, 2021); and speeding (November 23, 2022).

On appeal to the Civil Service Commission (Commission), the appellant requests that his name be returned to the eligible list.

In response, the appointing authority, represented by Steven S. Glickman, Esq., indicates that driving is an occupational requirement, and it was within its discretion to find that the appellant's driving history was not conducive to the position

and to remove his name from the list based on his multiple violations. The appointing authority adds that in March 2023, the appellant was found guilty of violating a noise regulation.¹

In reply, the appellant indicates that he has been driving for nearly 20 years, since 2005. In that time, per the appellant, he worked as a delivery driver for a total of 13 years, which required him to spend a substantial amount of time driving, likely more than the average motorist. He also notes that he completed a defensive driving course on December 30, 2023.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for 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.

There is no dispute that driving is an occupational requirement in this case, and thus the appellant's driving record is relevant to the position sought. This record includes multiple violations dating back to 2005 with the most recent occurring after the examination closing date. Such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of the duties of a Fire Fighter. *See In the Matter of William Bryant, Jr.* (MSB, decided July 25, 2000). Additionally, shortly before the eligible list promulgated, the appellant was found guilty of a noise violation.

Firefighters are not only entrusted with the duty to fight fires; they must also be able to work with the general public and other municipal employees, especially police officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire.

¹ Specifically, the appointing authority's background investigation report indicates that the appellant had been charged with another offense, but it was "AMENDED to Noise/prohibited acts – Guilty."

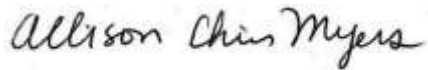
Karins v. City of Atlantic City, 152 N.J. 532, 552 (1998). While the appellant's efforts to improve his driving are commendable, there is not a sufficient basis for the Commission to overturn the appointing authority's determination in light of the multiple motor vehicle violations in the appellant's history and his recent noise violation. Accordingly, there is a sufficient basis to remove the appellant's name from the subject eligible list.

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 14TH DAY OF AUGUST, 2024



Allison Chris Myers
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: Kyle Heck
Stuart J. Alterman, Esq.
Shanece Jones
Steven S. Glickman, Esq.
Division of Human Resource Information Services
Records Center