



STATE OF NEW JERSEY

In the Matter of Eric Morrison,
Fire Fighter (M2201D), Atlantic City

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

CSC Docket No. 2024-1933

List Removal Appeal

ISSUED: October 16, 2024 (PS)

Eric Morrison, represented by Russell L. Lichtenstein, Esq. appeals the decision¹ to remove his name from the Fire Fighter (M2201D), Atlantic City, eligible list on the basis of an unsatisfactory driving record.

The appellant took the open competitive examination for Fire Fighter (M2201D), which had an August 31, 2022, closing date, achieved a passing score, and was ranked on the subsequent eligible list. In disposing of the August 10, 2023, certification, the appointing authority requested the removal of the appellant's name on the basis that he had an unsatisfactory driving record. Specifically, the appointing authority asserted that the appellant's driving record reflected the following violations within the past seven years: maintenance of lamps, no license/registration, or insurance ID in possession and two summonses for improper display/fictitious plates. The last of these infractions occurred in November 2018.

On appeal, the appellant argues that none of the offenses related in any manner to his operation of a motor vehicle, but they had to do with the fact that a

¹ Initially, this matter was administratively disposed of via an April 18, 2024, letter from this agency's staff indicating that based on the current record, the matter would not be forwarded to the Civil Service Commission (Commission) for a determination and the matter was closed. Subsequently, rather than challenging the matter further with the Commission, the appellant filed a notice of appeal to the Appellate Division of the Superior Court. The Court dismissed the matter as interlocutory and the matter is now before the Commission for a final administrative determination.

dealer-supplied license plate frame was determined to have been too wide and another offense involving failure to have documentation in his possession. Moreover, the appellant has had no moving violations and a decision to remove him from the list was nothing less than arbitrary, capricious and unjust.

The appointing authority, despite being provided the opportunity, did not respond.

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. Additionally, the Commission at its discretion, has the authority to removal candidates from lists for public safety titles based on their driving records if such a record demonstrates a sufficiently unsatisfactory background.

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 or her name from an eligible list was in error.

In this matter, the appointing authority did not have a valid reason for removing the appellant's name from the list. While the appellant did have several motor vehicle violations, the most recent was nearly four years prior to the closing date of the examination and nearly five years from the certification date. In this regard, the appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether he should remain eligible to be a Fire Fighter. Rather, whether these violations show sufficient disregard for the State laws and the exercise of poor judgment is at least as important. While these actions show a pattern of disregard for the law and questionable judgment on the appellant's part, the Commission cannot find, especially without further explanation from the appointing authority as to how these remote infractions would serve as a current impediment making the appellant unsuitable, and that his removal from the list is warranted. Clearly, a more extensive and/or recent driving record would support his removal from the list, but given the remoteness in time and relatively low number of infractions, the restoration of his name to the list is appropriate.

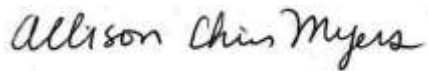
Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient cause for removing his name from the Fire Fighter (M2201D), Atlantic City, eligible list. Accordingly, the appellant's name shall be restored to the list for prospective employment opportunities only.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Fire Fighter (M2201D), Atlantic City eligible list for prospective employment opportunities.

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 16TH DAY OF OCTOBER, 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: Russell L. Lichtenstein, Esq.
Eric Morrison
Shanece Jones
Division of Human Resource Information Services
Records Center