



STATE OF NEW JERSEY

DECISION OF THE CIVIL SERVICE COMMISSION

In the Matter of Stephan Pitts, Camden County, Department of Public Works

CSC Docket No. 2024-763

Request of Reconsideration

ISSUED: May 1, 2024 (AMR)

Stephan Pitts, a Road Repairer 2 with Camden County, Department of Public Works, represented by William B. Hildebrand, Esq., requests reconsideration of the Civil Service Commission's (Commission) September 20, 2023 decision which dismissed the appeal of his 10 working day suspension on the basis of his failure to appear at the August 22, 2023 settlement conference at the Office of Administrative Law (OAL).

By way of background, the appellant timely appealed his 10 working day suspension to this agency which transmitted the matter to the OAL as a contested case. The OAL notified the Commission, the appellant's former legal counsel, and the legal counsel for the appointing authority on July 20, 2023 that the matter was scheduled for a settlement conference on August 22, 2023. However, prior to that time, the appellant's attorney, Annemarie Pinarski, Esq., signed a Withdrawal of Appearance on July 10, 2023. The record indicates that on that same document Hildebrand entered his appearance as Pitts' representative on August 25, 2023, three days after the scheduled settlement conference took place. Thus, the OAL notified Hildebrand on September 1, 2023 that the appellant and his attorney failed to appear on the scheduled date.

It is noted that the OAL only sends notice to the attorney or union representative when the appellant is represented.

In support of the appellant's request for reconsideration, the appellant's attorney argues that the appellant did not appear as a result of his failure to receive the July 20, 2023 notice to appear, as he only entered his appearance as Pitts' representative on August 25, 2023, three days after the scheduled settlement conference took place. Moreover, the appellant's attorney asserts that the appellant should not be denied a fair hearing due to the substitution of attorneys.

Despite given the opportunity, the appointing authority did not present any arguments for the Commission to review.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which the Commission may reconsider a prior decision. 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.

In this regard, when an appellant is represented by an attorney or union representative, the OAL only sends notice to the attorney or union representative. Accordingly, as the appellant does not bear any individual responsibility for his failure to appear at the settlement conference on August 22, 2023, and he did not intend to abandon his appeal, it would be unfair not to permit him to pursue his statutory right to challenge his suspension.

Given the new evidence presented, namely, the failure of the new attorney and the appellant to receive the notice to appear, it would be unfair not to permit the appellant to pursue his statutory right to challenge his 10 working day suspension based on the late notice that the attorneys were substituted. It is emphasized that the appellant was not sent the notice to appear. Accordingly, the Commission finds that, under the circumstances presented in this matter, to deny the appellant a hearing on the merits of his disciplinary action would be unjust.

ORDER

Therefore, it is ordered that Stephan Pitts' request to reinstate his appeal be granted and the matter be transmitted to the OAL for further proceedings.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 1ST DAY OF MAY, 2024

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

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and
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