



STATE OF NEW JERSEY

In the Matter of Christy Matthews,
Burlington County, Sheriff's
Department

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

CSC Docket No. 2022-2334
OAL Docket No. CSV 02982-22

ISSUED: JUNE 14, 2024

The appeal of Christy Matthews, Keyboarding Clerk 1, Burlington County, Sheriff's Department, release at the end of the working test period, effective March 11, 2022, was heard by Administrative Law Judge William T. Cooper III (ALJ), who rendered his initial decision on May 3, 2024. Exceptions and a response to the reply were filed by the appellant, and a reply to the exceptions and a response were filed on behalf of the appointing authority.

Having considered the record and the attached ALJ's initial decision, including a thorough review of the exceptions, replies, and responses, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on June 12, 2024, accepted and adopted the determinations contained in the ALJ's initial decision and his recommendation to uphold the release at the end of the working test period.

Upon its de novo review of the ALJ's initial decision as well as the entire record, including the exceptions filed by the appellant, the Commission agrees with the ALJ's determinations. The Commission makes the following comments. The ALJ found that although the appellant blamed the lack of training she received from her supervisor, she failed to address the specific deficiencies contained in the work progress reports. The ALJ also addressed her lateness issues and how this was not a training matter. In her exceptions, the appellant does not substantively address these issues, but rather, she asks the Commission to now investigate complaints of other coworkers who may have had issues with her supervisor. The Commission notes that such issues should have been raised and addressed at the Office of Administrative Law. Regardless, as found by the ALJ, the appellant failed to establish a nexus between the lack of training and her actual mistakes.

Further, while the appointing authority objects to the Commission's acceptance of the exceptions and a response to the reply to the exceptions, its arguments are unpersuasive. The Commission has previously indicated in other matters its interest in having a complete a record as possible absent any prejudice. *See In the Matter of Robert Zorn, Jr., Mercer County Department of Human Services* (MSB, decided April 5, 2006) (Untimely exceptions were accepted as they were received prior to the matter being considered and the appointing authority had an opportunity to respond). In the instant matter, the Commission finds no prejudice in accepting the exceptions and a response to the reply to the exceptions filed by the appellant. The appointing authority had the opportunity to respond.

ORDER

The Civil Service Commission finds that the action of the appointing authority in releasing the appellant at the end of the working test period was justified. The Commission therefore affirms that action and dismisses the appeal of Christy Matthews.

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 12TH DAY OF JUNE, 2024

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Dulce A. Sulit-Villamor
Deputy Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 02982-22

AGENCY DKT. NO. 2022-2334

**IN THE MATTER OF CHRISTY MATTHEWS,
BURLINGTON COUNTY SHERIFF'S DEPARTMENT.**

Christy Matthews, appellant, pro se

Margaret E. McHugh, Esq., for respondent Burlington County Sheriff's
Department (Malamut & Associates, LLC)

Record Closed: March 26, 2024

Decided: May 3, 2024

BEFORE **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

Appellant, Christy Matthews (Matthews), contends that respondent, Burlington County Sheriff's Department (County), acted in bad faith when it determined that she had not successfully completed her working test period (WTP) as a keyboarding clerk 1 (clerk), which resulted in her termination. Respondent denies that it acted improperly and contends that the appellant's case must be dismissed.

PROCEDURAL HISTORY

On March 11, 2022, the respondent notified Matthews that she had not satisfactorily completed her WTP in the position of clerk and terminated her. Matthews timely appealed, and the Civil Service Commission transmitted the matter to the Office of Administrative Law, where it was filed as a contested case on April 14, 2022. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. The matter was heard on March 26, 2024, and the record was closed on that date.

FACTUAL DISCUSSION AND FINDINGS

Testimony

For Appellant

Analise Fitzgerald (Fitzgerald) testified on behalf of the appellant. She only worked for the County for a period of one year, but that period covered the same time that Matthews was working there. Fitzgerald explained that she resigned from the County because she was not treated fairly while she worked there, and she had some ongoing home issues. It was Fitzgerald's opinion that she and Matthews did not receive proper training from their immediate supervisor, Mandy Quinones (Quinones). According to Fitzgerald, Quinones relied on co-workers to train the new hires. Fitzgerald also complained that Quinones would often take time off from work and was generally unavailable to assist staff if there were any questions. She felt that Matthews' termination was unfair because she did not receive proper training, and she believed that the County acted in bad faith. There was no further testimony provided by Fitzgerald to support why she believed the County acted in bad faith.

Fitzgerald admitted that she herself received good reviews from Quinones during her tenure and that under Quinones' supervision, Fitzgerald successfully completed her WTP.

Fitzgerald related two specific events as proof that Quinones was a bad supervisor. The first was an incident where Quinones made an error, but rather than accepting fault she blamed the error on Fitzgerald. The second incident involved Quinones making fun of Matthews after she returned from sick leave due to COVID. Matthews suffered ocular inflammation in her left eye, which resulted in blood being visible in her eye. According to Fitzgerald, she heard Quinones make a joke at Matthews' expense about her medical condition. When asked to provide details concerning these events, Fitzgerald could not recall the date when they occurred, who was present, or if anyone else had heard them. Further, Fitzgerald did not report either event to Human Resources (HR).

Fitzgerald never filed a complaint against Quinones, although she believed that other employees had. Fitzgerald claimed simply that HR never did anything about them. Fitzgerald could not name the employees who had allegedly filed complaints. Overall, Fitzgerald opined that Matthews' failures were due to the lack of adequate training, for which she blamed Quinones.

Christy Matthews testified on her own behalf. Matthews believes that her termination was retaliatory and not because she was a poor employee. She offered that once she complained about her supervisor Quinones, that was when she was terminated. The main complaint Matthews had was regarding the training she received. Instead of being trained by Quinones she was trained by other employees. Matthews also offered that Quinones was often not present when she was working, so she does not understand how she could have commented on her work if she wasn't in the building.

Matthews began working for the County on November 11, 2021, and within three weeks she had contracted COVID, causing her to go out on medical leave. Matthews was out of work for approximately three weeks from December 6, 2021, to December 28, 2021. According to Matthews she was provided with a combination thirty- and sixty-day review on February 10, 2022. Matthews admitted that the review did not go well, but rather than addressing any of the unsatisfactory complaints contained in that review, she instead directed the blame at Quinones for not providing her with proper training. Matthews did not provide an explanation as to what was meant by proper training.

Matthews explained that on February 15, 2022, while working with Matthews, Quinones made insensitive remarks concerning Matthews' medical difficulties with her left eye. In response, Matthews provided medical documents from her physician to Quinones. These documents were sent to HR, and in turn HR contacted Matthews to determine if she needed any accommodation due to her condition. Matthews did not request any accommodation, and she did not make a complaint as to Quinones' conduct at that time.

On March 11, 2022, Matthews attended her ninety-day performance review. Present at this meeting was Roxana Rivera, the sheriff's confidential aide, and an HR representative, Kate Mahan. During the meeting, Matthews was advised that her work was unsatisfactory and that she was being terminated. According to Matthews, she objected to the evaluation because it was untruthful; it was at this time that Matthews pointed to her lack of training and the negative remarks previously made by Quinones.

Matthews broadly claimed that the County was guilty of fraud regarding her ninety-day work-review form. Matthews claimed that the signature on the form is not hers, and referenced her signature on the sixty-day form as proof that the signature is false. Also, there was an unsigned copy of this document that Matthews offered as further proof that the County was acting in bad faith.

Matthews complained that Quinones was a poor supervisor and a "bully" who was protected by her superiors. However, Matthews offered little, if any, evidence in support of these claims.

For Respondent

Kate Mahan (Mahan) testified on behalf of the County. She has been employed by the County for thirteen years and currently works in HR as a principal personnel technician. Her job duties include addressing employee complaints or concerns, handling employee discipline, monitoring working test periods, and managing payroll. She advised that she is familiar with Matthews' employment history with the County.

Mahan explained that the County uses the Civil Service Commission's (CSC), County and Municipal Personnel System (CAMPS) program for each employee. A review of Matthews' CAMPS file reveals that she was hired as a clerk on November 11, 2021, and that she had a WTP of ninety days. Approximately three weeks after Matthews' start date, she was out of work on medical leave from December 6, 2021, to December 28, 2021, due to COVID. This information was entered into CAMPS, and the CSC adjusted Matthews' original ninety-day review period by extending it from February 15, 2022, to March 11, 2022.

Mahan explained that Matthews' sixty-day review form, dated February 10, 2022, indicated that she was not proficient at her job. The review, under "Quality/Accuracy of Work," indicated that she was below standard and specified:

Errors have been noticed with time stamping some of the mail and disbursing [sic] the mail to the incorrect person/unit/mailbox. Use the guide provided and check with your supervisor when you are unsure of where to time stamp or disburse [sic] mail.

[A-3; R-5.]

Under "Quantity of Work," the review indicated that Matthews met expectations, but noted: "Answers the phones and times [sic] stamps the mail in a reasonable amount of time. When finished the morning mail you should check with your supervisor for additional work." Ibid. Under "Compliance with policies and procedures," Matthews was below standard, and the review reflected: "Needs to work [on] following the guide provided when handling the mail and arriving on time for work." Ibid. Under "Attendance/Punctuality," Matthews was below standard, and the review noted: "It has been noticed that you have arrived after your scheduled start time of 8:30 AM on a few occasions." Ibid. Lastly, under "Communication skills with co-workers/supervisors," Matthews was below standard, and it was reported:

Needs improvement with communication with supervisor. If you will be late to work for any reason you should notify your supervisor. After your work is finished you should speak with your supervisor for further work to do during the work day.

[ibid.]

The sixty-day review reflected that the review period was for the following dates: November 15, 2021–December 5, 2021, December 29, 2021–January 6, 2022, and January 7, 2022–February 5, 2022. Matthews was on leave for COVID from December 6, 2021, to December 28, 2021, and that period was not included in the review, just noted for record purposes. Mahan admitted she was not present for this review, but did not recall any negative reports regarding Quinones being registered.

Mahan recalls that in February 2022, Roxana Rivera (Rivera) forwarded medical documents from Matthews to HR. Upon their receipt and review of the medical documents, HR reached out to Matthews via email to determine if she needed any accommodation due to her medical condition. On February 24, 2022, Mahan and HR director Lombardo met with Matthews to address the medical condition noted in the medical documents. Matthews did not request any accommodation at that time. Importantly, Matthews did not raise any work-related complaints or issues that she may have had with Quinones.

Mahan advised that HR staff are typically involved with employee evaluations. Mahan explained that the employee review forms are completed collaboratively and in advance of the employee meeting. Employee work-review forms are drafted by supervisors and then reviewed by HR for completeness prior to their release to employees. Here, she indicated that Matthews was brought to HR, pursuant to regulations, five days prior to the expiration of her WTP on March 11, 2022. Mahan and Rivera were present, and Rivera read the ninety-day review directly from the form to Matthews.

The ninety-day review, dated March 11, 2022, also reflected that Matthews was not proficient at her job. Matthews was deficient under “Quality/Accuracy of Work,” and the review noted:

Mail is not distributed properly to the correct units/persons. For example, mail for purchasing was placed in immediate supervisor's mailbox. Mail addressed to a specific officer working in the Warrant Unit was placed in the sheriff's mailbox. Wage Execution checks are time stamped on the face of the check and not on the check stub. Written instructions have been provided but not followed. Additionally, hands-on training has been provided along with corrective action counsel from immediate supervisor.

Phone calls are not transferred/answered properly. Immediate supervisor observed, on several occasions, calls on speaker sent to incorrect units/persons. Additionally, other clerical staff members have answered phone calls while you were at your desk because you were unable to assist with transferring to the correct person/unit and/or provide general information requested by the caller. Employee received a copy of the department's phone list (directory). Additionally, employee received verbal instructions on where to direct callers/members of the public.

Employee's immediate supervisor attempted to train employee on other aspects of her day-to-day duties to see if it was more easily understandable than answering phones and distributing mail, but this was unsuccessful. For example, employee was trained on how to enter data into our system, print documents and close files. After training employee stated she understood the process and was left to work independently. Supervisor checked on employee and reiterated to come see her with any questions. The following day employee's immediate supervisor checked her work and it was done incorrectly.

[A-4; R-6.]

Matthews was marked as deficient in "Quantity of Work." The review noted that she was "not productive" when working independently and that she "depend[ed]" on other staff members to answer/assist callers and the public. In "Attendance/Punctuality," Matthews was rated as below standard, and the review explained that she received a written warning concerning lateness, yet little improvement was made. In "Communication skills with co-workers/supervisors," Matthews was marked as deficient, and the review detailed:

After employee received hands-on and written training, the immediate supervisor reminded employee to address any questions with her directly. This would allow employee to receive exact and current information. It was noticed on several occasions the employee going to other staff members for assistance. Even when the employee was provided with the correct information from other staff members mistakes were made. Example, employee received a call asking for service fees. Another staff member assisted with the information, but employee still provided incorrect information.

[Ibid.]

Under "Additional Comments" was written:

After employee received hands-on and written training on several occasions, she is still unable to grasp her duties of answering calls and distributing mail. Since the employee has been unable to follow through with these fundamental functions, we have been unable to train in other day-to-day responsibilities.

[Ibid.]

Mahan recalled that Matthews became upset and appeared both sad and frustrated regarding her poor review. Further, for the first time, Matthews voiced her concerns regarding Quinones and the lack of training. Upon the conclusion of the meeting, Matthews was asked to sign the ninety-day review form. Mahan did not specifically recall witnessing Matthews sign the form.

Mahan was not certain how an unsigned copy of the employee ninety-day review was in Matthews' possession, but noted that it was not the approved form. Also, she noted that employees can be emotional during termination proceedings, and thus it may impact an employee's signature. Mahan noted that although the County likes to use three reviews (thirty-, sixty-, and ninety-day reviews), the CSC only requires two. In Matthews' case, because she was on medical leave when her thirty-day review would have been conducted, it was not held, and the County relied on the sixty- and ninety-day reviews.

Finally, Mahan testified that she was not aware of any employee complaints being made against Quinones.

Findings

At issue are the performance and evaluations of the appellant. The County's witness testified to Matthews' poor performance and difficulties meeting the job requirements of her position, and, in turn, Matthews blamed her poor performance on the lack of training from her direct supervisor, Quinones. Matthews also alleges bad faith on the part of the County regarding her ninety-day review. Therefore, the credibility of the witnesses must be determined.

When the testimony of witnesses is in disagreement, it is the obligation and responsibility of the trier of fact to weigh the credibility of the witnesses in order to make factual findings. Credibility is the value that a fact finder gives to the testimony of a witness. The word contemplates an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963). Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself, and it must be such as our common experience, knowledge, and common observation can approve as probable in the circumstances. State v. Taylor, 38 N.J. Super. 6, 24 (App. Div. 1955); see also Gilson v. Gilson, 116 N.J. Eq. 556, 560 (E. & A. 1934). A fact finder is expected to base decisions on credibility on his or her common sense, intuition, or experience. Barnes v. United States, 412 U.S. 837 (1973). Credibility does not depend on the number of witnesses, and the finder of fact is not bound to believe the testimony of any witness. In re Perrone, 5 N.J. 514 (1950).

The testimony of Fitzgerald, Matthews, and Mahan was consistent, and there was nothing inherently unbelievable about any testimony provided. Each witness answered questions directly and calmly. Fitzgerald and Matthews each claimed that Quinones was to blame for Matthews' poor review because she did not provide her with the proper training. Further, both Fitzgerald and Matthews testified that Quinones was a poor supervisor and that other employees had made complaints about Quinones, but that she

was somehow "protected." Neither Fitzgerald nor Matthews provided any specific details regarding any of these claims. More importantly, Mahan testified that she does not recall HR ever receiving complaints regarding Quinones from other employees.

Mahan testified in a calm, straightforward fashion as she detailed the County's actions regarding Matthews. She was clearly familiar with the facts and circumstances of this matter. I found her to be entirely credible.

Fitzgerald readily blamed Quinones for Matthews' failure to satisfactorily perform her duties. Further, she claimed that she too "was not properly trained," and that like Matthews she was trained by co-workers instead of Quinones. However, Fitzgerald was able to meet the requirements of her job, received good reviews from Quinones, and successfully completed her WTP. Fitzgerald only worked for the County for one year. While nothing she testified to was inherently unbelievable, her testimony lacked specific details and was of minimal value. I cannot accept her claims as persuasive.

Matthews also testified in a calm and straightforward manner. Her claims that Quinones did not personally train her and that she was often out of the office or unavailable to answer questions were not inherently unbelievable. However, she failed to address any of the deficiencies contained in her sixty- or ninety-day reviews; rather, she broadly maintained that "she was not a poor employee, she was just poorly trained." The sixty-day review noted deficiencies or below-standard work in the following categories: quality/accuracy of work, quantity of work, compliance with policies and procedures, attendance/punctuality, and communication skills with co-workers/supervisors. The ninety-day review showed no improvement in any of these categories. Of some interest was the attendance/punctuality category. The sixty-day review noted that Matthews was below standard in reporting to work at or before 8:30 a.m. The ninety-day review indicated that Matthews had received a verbal warning for tardiness, so there was no improvement. The alleged poor training from Quinones would have nothing to do with punctuality. In the final analysis, Matthews' testimony was unpersuasive because it lacked specificity and failed to address any of the deficiencies noted in the sixty- or ninety-day reviews or how Quinones not personally training her caused them.

Matthews claimed that the signatures on the sixty-day review were different than the signatures on the ninety-day review. A cursory review of those signatures clearly confirms that they are different. However, that difference could be explained by the fact that Matthews was upset, sad, and frustrated after being terminated. Here too, Matthews made a general allegation but failed to provide any further detail that would establish bad faith or wrongdoing by the County.

The credible testimony establishes that Matthews had difficulties meeting the job requirements of a keyboarding clerk. Her supervisor and County HR concurred that she had difficulty reporting to work on time, difficulty in time stamping incoming mail, and difficulty in delivering mail to the correct employee or unit, and I so **FIND**. The County afforded Matthews an appropriate WTP by factoring in her three-week absence due to COVID, she was provided with sixty- and ninety-day reviews, and she was given an in-person interview to discuss same. In this matter, the County's actions at the end of Matthews' WTP were taken in good faith, and I so **FIND**.

CONCLUSIONS OF LAW

The purpose of the working test period is to permit an appointing authority time to determine whether an employee satisfactorily performs the duties of a title. N.J.S.A. 11A:4-15; N.J.A.C. 4A:4-5.1(a). For State positions, the working test period shall be for four months and may be extended an additional two months. N.J.A.C. 4A:4-5.2(b). N.J.A.C. 4A:4-5.4 provides that an employee may be terminated for unsatisfactory performance at the end of the working test period. A party may appeal against the termination, but the employee has the burden to establish that the separation was a result of bad faith. N.J.A.C. 4A:2-4.3(b). In Devine v. Plainfield, 31 N.J. Super. 300 (App. Div. 1954), it was made clear that a probationary employee who is terminated should be given a hearing to present evidence as to the limited issue of bad faith by the appointing authority. In Briggs v. New Jersey Department of Civil Service, 64 N.J. Super. 351, 356 (App. Div. 1960), the court stated that the only issue in such a case is whether the appointing authority exercised good faith in determining that the employee was not competent to perform satisfactorily the duties of the position.

There are no reported decisions in a case involving termination at the end of a working test period where the courts have specifically defined what is meant by good faith. In Smith v. Whitman, 39 N.J. 397 (1963), a non-civil service case, the New Jersey Supreme Court defined good faith as meaning honesty of purpose and integrity of conduct with respect to a given subject. In Lustrelon, Inc. v. Prutscher, 178 N.J. Super. 128, 144 (App. Div. 1981), it was observed that "bad faith" is the antithesis of good faith and must be a thing done dishonestly; it contemplates a state of mind affirmatively operating with a furtive design or some motive or interest of ill-will. See O'Connor v. Health Servs. Ctr. of Camden Cnty., 91 N.J.A.R.2d (CSV) 23.

If the evaluations and determination are based upon actual observations of the employee's performance of the duties of the position and are honest assessments of whether the employee is capable of satisfactorily and efficiently performing those duties should appointment become permanent, they must be considered to have been made in good faith. If, on the other hand, the decision to terminate is not based upon actual observations of performance, or if it is made based upon dishonest motives, is based on bias, prejudice, or self-interest, or is made with ill will toward the employee, it must be set aside.

The appellant has not shown by a preponderance of the competent and credible evidence that respondent's action at the end of her working test period was taken in bad faith. No credible evidence was offered as to bad faith. The credible evidence reveals that Matthews had difficulty adjusting to the job of keyboarding clerk 1 and appropriately meeting the responsibilities required of that position. The record does not show any bad faith, bias, or improper motives by the County. Accordingly, I **CONCLUDE** that appellant has not sustained her burden and that her appeal should be dismissed. I further **CONCLUDE** that the appointing authority's action must be affirmed.


ORDER

I **ORDER** that the appellant's appeal be **DISMISSED** and that respondent's action terminating appellant be **AFFIRMED**.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



May 3 2024

DATE

WILLIAM T. COOPER III, ALJ

Date Received at Agency:

May 3, 2024

Date Mailed to Parties:

May 3, 2024

WTC/am

APPENDIX

WITNESSES

For Appellant:

Analise Fitzgerald

Christy Matthews

For Respondent:

Kate Mahan

LIST OF EXHIBITS

For Appellant:

- A-1 Analise Fitzgerald's letter of March 9, 2023
- A-2 30-day review form
- A-3 60-day review form
- A-4 90-day review form (3 copies); Roxana's email and letter of absence
- A-5 Matthews and Quinones personal calendars, Mandy's timesheets
- A-6 Not Admitted
- A-7 Todd Wirth letter dated 1/14/22 and worksite COVID notices
- A-8 COVID doctor notes
- A-9 Eye physician's notes
- A-10 Human Resources email as to eye issue
- A-11 Eye photos
- A-12 Itemized medical expenses
- A-13 Withdrawn by counsel
- A-14 Matthews emails to HR and union rep

For Respondent:

- R-1 County and Municipal Personnel System New Hire Transaction (CAMPS)
- R-2 Civil Service email on recalculated working test period, March 8, 2022
- R-3 CAMPS Transaction History
- R-4 30-day evaluation
- R-5 60-day evaluation
- R-6 90-day evaluation
- R-7 Termination Letter, hand delivered
- R-8 Sick note on eye email chain with HR, 2/22/22