



STATE OF NEW JERSEY

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

In the Matter of Alexandre
Marquinhos Fire Fighter (M1856W),
Newark

List Removal Appeal

CSC Docket No. 2024-491

ISSUED: July 3, 2024 (SDW)

Alexandre Marquinhos appeals the removal of his name from the eligible list for Fire Fighter (M1856W), Newark on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open-competitive examination for Fire Fighter (M1856W), which had a closing date of August 31, 2018. The resulting eligible list promulgated March 29, 2019 and expired on April 19, 2023.¹ The appellant's name was certified to the appointing authority on December 8, 2022, with a notice date of December 15, 2022. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice. Certification notices instruct individuals to write to the appointing authority within five business days of the notice date to let it know whether the individual was interested in the position.

In support of his appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that he did receive the December 15, 2022 certification notice and mailed his response within the five-day allotted time.

¹ Agency records indicate that the subject eligible list was extended until April 19, 2023.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *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.


The appointing authority requested the removal of the appellant's name from the eligible list for Fire Fighter (M1856W) on the basis of his failure to respond to the December 15, 2022 certification notice. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that he did receive the certification notice, and that he mailed his responds within the five-day allotted time. Where there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his sworn, notarized statement. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, as the appellant has attested that he did send his response within the five-day period, he has rebutted the above presumption, and it is appropriate that his name be restored to the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Fire Fighter (M1856W), Newark, be revived in order for appellant to be considered for appointment at the time of the next certification for prospective employment opportunities only.

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 3RD DAY OF JULY, 2024



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