**STATE OF NEW JERSEY**

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| In the Matter of Dejaun Colbert, Department of Corrections | : | **FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION** |
| CSC Docket No. 2026-2130 | : | Back Pay Appeal |

**ISSUED:** September 23, 2026 **(NFA)**

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Dejaun Colbert, Senior Correctional Police Officer, Garden State Correctional Facility, Department of Corrections (DOC), appeals the DOC's calculation of his back pay entitlement.

The salient facts of this matter can be briefly summarized. The record indicates that the appellant was indefinitely suspended without pay based on pending criminal charges beginning on Saturday, October 22, 2022.[1] The criminal charges were ultimately dismissed, and the appellant was reinstated to pay status, effective December 6, 2024. The appellant requested back pay pursuant to *N.J.A.C.* 4A:2-2.10(c) and the DOC offered the appellant a mitigated amount of back pay from April 24, 2023, through December 5, 2024. In did not offer back pay between October 22, 2022, and April 23, 2023, as it indicated that his receipt of Temporary Disability Insurance (TDI) benefits during that time precluded his receipt of back pay for that period pursuant to *N.J.A.C.* 4A:2-2.10(d)9.

On appeal, the appellant argues that the DOC improperly denied his request for back pay during the time he received TDI benefits. He contends that by not granting him back pay during the period in question, he is not being "made whole" as contemplated in Civil Service rules. He indicates that the TDI benefits he earned

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[1] While both the appellant and the DOC agree on this date, it is noted that the Preliminary Notice of Disciplinary Action indicated the date as October 25, 2022. As the use of either date will not change the result in this matter, it need not be reconciled.

should merely be considered as income earned during that period and used as an offset to his overall back pay award.

In reply, the DOC argues that since the appellant applied for and received TDI benefits during that time, he established his inability to work and thus, *N.J.A.C.* 4A:2-2.10(d)9 prohibits his receipt of back pay during that time.

## CONCLUSION

*N.J.A.C.* 4A:2-2.10(c) states, in pertinent part, that an employee shall receive back pay, benefits and seniority where a suspension on a pending criminal complaint or indictment is reversed since the employee is found not guilty at trial, the complaint or indictment is dismissed, or the prosecution is terminated.

*N.J.A.C.* 4A:2-2.10(d)3 states, in pertinent part, where an indefinite suspension pending the disposition of criminal charges has been reversed, the award of back pay shall be reduced by the amount of money that was actually earned during the period of separation, including any unemployment insurance benefits received.

*N.J.A.C.* 4A:2-2.10(d)9 states that a back pay award is subject to reduction for any period of time during which the employee was disabled from working.

Initially, there are myriad ways a back pay award can be reduced or eliminated under *N.J.A.C.* 4A:2-2.10. Accordingly, the appellant's initial argument that by not being awarded back pay during the disputed period of time, he is not being "made whole" is unpersuasive. So long as he receives the appropriate amounts of back pay, benefits and seniority prescribed in *N.J.A.C.* 4A:2-2.10, including any mitigated or excluded amounts permitted in that rule, he is considered whole as contemplated under Civil Service law and rules.

As indicated in *N.J.A.C.* 4A:2-2.10(d)9 above, back pay is subject to reduction where an employee is disabled from working. In this regard, the appellant's argument that his receipt of TDI benefits should be used solely as income earned during that period of time is untenable. Receipt of TDI benefits clearly establishes that an employee is disabled from working during the period of receipt of such benefits.[2] While TDI is a temporary wage replacement program, similar to unemployment insurance benefits, to be eligible, an employee must be disabled from working due to a non-work-related disability. Moreover, if *N.J.A.C.* 4A:2-2.10(d)3

[2] The record indicates that the appellant began receiving TDI benefits on November 1, 2022. However, he is not entitled to back pay from October 23, 2022, to October 31, 2022, since TDI has a seven- day waiting period from the date of disability before an individual begins receiving such benefits. Thus, his receipt starting on November 1, 2022, establishes his disability as of Tuesday, October 25, 2022. Further, assuming an indefinite suspension date of October 22, 2022, while there is nothing in the record indicating the appellant's ability to work on October 23 and 24, 2022, there is no basis to award back pay for those days absent evidence from the appellant that he was not disabled.

contemplated utilizing receipt of TDI benefits as income earned similar to unemployment insurance benefits, that section would have certainly included it. The fact that it does not, reflects the difference between the programs, namely that TDI benefits would subject an employee to reduction of back pay under *N.J.A.C.* 4A:2-2.10(d)9 since a predicate for receipt of such benefits is disability from working,

Accordingly, the appellant was properly denied back pay for the period of October 22, 2022, through April 23, 2023. Therefore, his appeal is denied.

**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 23RD DAY OF SEPTEMBER, 2026



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