

Release of drug abuse counselor at end of working test period; lack of veracity, good communication skills, punctuality and reliability. Memmot v. Department of Health, Twp. of Freehold, 95 N.J.A.R.2d (CSV) 118.

Correction officer properly released at end of working test period. Muhammad v. Department of Corrections, 94 N.J.A.R.2d (CSV) 609.

Probationary employee failed to show that he was released in bad faith. Lindsley v. Department of Buildings and Grounds, Monmouth County, 94 N.J.A.R.2d (CSV) 604.

Deficiency in both quality and quantity of work; release at end of working test period. Brown v. Department of Labor, 94 N.J.A.R.2d (CSV) 362.

Demotion justified; performance did not substantially improve during three-month test period. Smith v. Jersey City Housing Authority, 94 N.J.A.R.2d (CSV) 381.

Termination of hospital attendant at end of working test period was justified. Vaidier v. Mercer County Geriatric Center, 94 N.J.A.R.2d (CSV) 94.

Release of probationary police officer; working test period. Burchardt v. Union Township Police Department, 93 N.J.A.R.2d (CSV) 618.

Release of assistant engineer at end of his working test period justified. De Botton v. Borough of Fair Lawn, 93 N.J.A.R.2d (CSV) 579.

Release at end of work test period was not justified. Hall v. Newark Housing Authority, 93 N.J.A.R.2d (CSV) 432.

Removal at end of working test period for unsatisfactory services was not in bad faith. Amin v. Department of Transportation, 93 N.J.A.R.2d (CSV) 406.

Release at end of working test period was not in bad faith. Capone v. State-Operated School District of Jersey City, 93 N.J.A.R.2d (CSV) 395.

No showing of bad faith; termination at end of employee's working test. Capone v. State-Operated School Dist. of City of Jersey City, Hudson County, 93 N.J.A.R.2d (CSV) 395.

Removal at end of working test period was not action taken in bad faith. Aller v. Department of Labor, 93 N.J.A.R.2d (CSV) 390.

Decision to remove at the conclusion of working test period was not formulated in bad faith. Aller v. Department of Labor, 93 N.J.A.R.2d (CSV) 390.

Termination of officer was in bad faith. Bowers v. Irvington Township Police Department, 93 N.J.A.R.2d (CSV) 55.

Good faith; termination at the end of a working test period. Davis v. Department of Transportation, 92 N.J.A.R.2d (CSV) 769.

Suspension and release at end of working test period. Evelina v. William Paterson College of New Jersey, 92 N.J.A.R.2d (CSV) 738.

Release from position at the end of working test period was justified. Meyrick v. Hunterdon County Sheriff's Office, 92 N.J.A.R.2d (CSV) 692.

No error in release at the end of working test period. Edington v. Treasury Department, 92 N.J.A.R.2d (CSV) 673.

Release after working test period; not bad faith. Phillips v. New Jersey Department of Human Services, 92 N.J.A.R.2d (CSV) 602.

Department of Transportation improperly used a working test period as a basis for terminating inspector's employment. Andres v. N.J. Department of Transportation, 92 N.J.A.R.2d (CSV) 481.

Employee released in good faith at end of working test period. Johnson v. Vineland Developmental Center, 92 N.J.A.R.2d (CSV) 363.

Bad faith termination of recruit because of unsatisfactory working test period. Smith v. Northern State Prison, 92 N.J.A.R.2d (CSV) 342.

Release at end of extended working test period; not justified. Vegotsky v. Office of Administrative Law, 92 N.J.A.R.2d (CSV) 162.

Release at end of working test period; failure to demonstrate bad faith. Downs v. Marlboro Psychiatric Hosp., 92 N.J.A.R.2d (CSV) 94.

Appellant failed to show that employer (Newark Free Public Library) acted in bad faith in denying her a fair evaluation of her work performance and releasing her at the end of her working test period based on claim that her services were unsatisfactory (citing former N.J.A.C. 4:1-13.7). Davis v. Newark Public Library, 9 N.J.A.R. 84 (1987).

4A:4-5.2 Duration

(a) The working test period shall not include any time served by an employee under provisional, temporary, interim or emergency appointment. The working test period shall begin on the date of regular appointment. See N.J.A.C. 4A:1-1.3 for definition of regular appointment.

(b) The length of the working test period, except as provided in (c) through (e) below, shall be as follows:

1. In local service, a period of three months of active service, which may not be extended.

2. In State service, a period of four months of active service, which the Commissioner may extend on request of an appointing authority for an additional two months. Such request should be submitted to the Department of Personnel at least five working days before the end of the four month period. The appointing authority shall notify the employee of the extension in writing on or before the last day of the four month period.

i. Regularly appointed employees serving in intermittent titles shall serve a working test period of 88 work days, which, upon the request of the appointing authority, may be extended by the Commissioner for an additional 44 work days. For purposes of this subsection, any part of a day shall constitute a work day.

ii. An employee serving in an intermittent title who is furloughed prior to completing the working test period, shall resume the working test period upon return from furlough.

(c) When notice of termination is served following the last day of the working test period pursuant to N.J.A.C. 4A:2-4.1(c), the working test period shall end on the date of service of the notice.

(d) Persons appointed to entry level law enforcement, correction officer, juvenile detention officer and firefighter titles shall serve a 12-month working test period. A law enforcement title is one that encompasses use of full police powers, but shall not include the local service competitive title of Police Assistant. See N.J.A.C. 4A:3-3.7A. Persons

appointed in local service to the competitive title of Police Assistant shall serve a three-month working test period.

1. In local service, law enforcement officers who are required by N.J.S.A. 52:17B-66 et seq. (Police Training Act) to complete a police training course shall not begin their working test period until notification is received by the appointing authority from the Police Training Commission of the successful completion of the police training course. However, major disciplinary procedures applicable to employees serving in a working test period (see N.J.A.C. 4A:2-2) shall also be applicable to such officers from the date of appointment until completion of police training. Upon successful completion of the working test period, the date of appointment from the eligible list shall be recorded as the date of regular appointment.

i. Law enforcement officers who have successfully completed the police training course prior to appointment shall begin their working test period on the date of regular appointment.

2. Appeals from failure to successfully complete the police training course shall be in accordance with procedures established by the Police Training Commission. See N.J.A.C. 13:1-11.

(e) An approved leave of absence including a furlough extension leave or a voluntary furlough shall extend the completion of the working test period for a period of time equal to that leave or voluntary furlough.

1. When a paid leave of absence is granted to a correction officer or juvenile detention officer for the purpose of training required by N.J.S.A. 52:17B-68.1, such leave shall not extend the length of the working test period unless the course in which the appointee is enrolled is scheduled to end after the one-year period. Regarding appointments to the title of Correction Officer Apprentice, see N.J.A.C. 4A:3-3.7B.

Amended by R.1989 d.569, effective November 6, 1989.
See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

In (d): added "juvenile detention officer."

In (d)1: added text, "However . . . regular appointment." Added 1. to subsection (e) regarding a paid leave of absence.

Amended by R.1993 d.270, effective June 7, 1993.

See: 25 N.J.R. 1085(b), 25 N.J.R. 2509(a).

Revised (b)2.

Amended by R.1995 d.12, effective January 3, 1995.

See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

Amended by R.2006 d.104, effective March 20, 2006.

See: 37 N.J.R. 4351(a), 38 N.J.R. 1425(a).

In introductory paragraph (d), added ", but shall not include the local service competitive title of Police Assistant," reference to N.J.A.C. 4A:3-3.7A and the last sentence.

Amended by R.2010 d.061, effective April 19, 2010.

See: 42 N.J.R. 9(a), 42 N.J.R. 775(a).

In (e)1, substituted "When a" for "A", "is granted to" for "for" following "absence" and "one-year" for "one year", inserted ", such leave", and inserted the last sentence.

Case Notes

Employee did not complete his working test period as a Supervising Investigator, Law and Public Safety because N.J.A.C. 4A:4-5.2(a)

provides that the working test period shall not include any time served by an employee under provisional, temporary, interim or emergency appointment. That is, a working test period begins on the date of regular appointment, which is defined per N.J.A.C. 4A:1-1.3 in relevant part as employment of a person to a position in the noncompetitive division of the career service. Per N.J.A.C. 4A:4-5.2(b)2, the length of the working test period in State service is a period of four months of active service, which may be extended on request of an appointing authority for an additional two months. Thus, even though the employee was appointed to the title at issue on December 10, 2011, that appointment was as an "acting" Supervising Investigator, Law and Public Safety and did not trigger a working test period, which can only commence on the date of regular (that is, not "acting") appointment. In re Mullan, Dep't of Law & Pub. Safety, CSC Docket No. 2013-1602, 2013 N.J. CSC LEXIS 1199, Final Administrative Action (December 19, 2013).

Civil Service Commission permitted the intergovernmental transfer of a sheriff's officer to the position of a police officer although he had not completed his 12-month working test period as required by N.J.A.C. 4A:4-5.2(d) and a request could not have been processed under N.J.A.C. 4A:4-7.1A(a). Given the town's staffing needs for trained law enforcement personnel, good cause existed under N.J.A.C. 4A:1-1.2(c) to relax the controlling regulatory provisions in order to permit the transfer to the Police Department. In re Pawel Wcislo, Twp. of Marlboro, CSC Dkt. No. 2013-3253, 2013 N.J. CSC LEXIS 663, Final Decision (July 17, 2013).

Civil Service Commission granted a request made by a county that the Commission, per N.J.A.C. 4A:1-1.2(c), relax the rules governing intergovernmental transfers, including N.J.A.C. 4A:4-7.1A(a), and allow a police officer who had been laid off by a city before he could complete his working test period in compliance with N.J.A.C. 4A:4-5.2(d) and more than a year prior to the date on which the request was made to transfer to the county sheriff's office, where he would complete his working test period. Relief was proper given the circumstances of the city's layoff action, the county's need for trained law enforcement staff, and the willingness of the parties to provide for the officer's completion of his working test period. In re Hisham Sheikh, Bergen County Sheriff's Office, CSC Dkt. No. 2013-200, 2013 N.J. CSC LEXIS 100, Final Decision (February 21, 2013).

Police officer was granted an intergovernmental transfer under N.J.A.C. 4A:4-7.1A(a) despite the fact that he had not yet completed his 12-month working test period required by N.J.A.C. 4A:4-5.2(d). Given the Borough's critical need for trained law enforcement staff, good cause existed under N.J.A.C. 4A:1-1.2(c) to permit the transfer and to allow him to complete the remainder of his working test period with the Borough. In re Robert Scarborough, Borough of Woodlynn, CSC Dkt. No. 2013-1797, 2013 N.J. CSC LEXIS 24, Final Decision (February 7, 2013).

An Administrative Law Judge (ALJ) concluded that a city police department had not shown that the termination of a probationary officer at the end of the 12-month working test period (WTP) as permitted by N.J.A.C. 4A:4-5.1 was in good faith as required by N.J.A.C. 4A:2-4.3(b) and that the officer was entitled to have a 6 month extension of the WTP. The officer had served only four months of the WTP when, in January 2004, he was called back to active duty by the U.S. Army and deployed to Iraq. The officer only returned to duty with the city in April 2005. Even though N.J.A.C. 4A:5.2(d) did not specify that a WTP was to consist on one uninterrupted year, the military-service based interruption in the officer's WTP lasted 17 months and placed the officer at a distinct disadvantage. It also put in doubt the validity of the performance evaluations on which the city had relied in terminating the officer. On these facts, it did not appear that the officer had been fairly evaluated, and his WTP was properly extended by six months so that a fair evaluation might be made. In re Howe, City of Clifton, OAL DKT. NO. CSV3601-06, AGENCY DKT. NO. 2006-2849-I, 2008 N.J. AGEN LEXIS 1545, Initial Decision (January 9, 2008).

While the Civil Service Commission had the authority to address the validity of the Police Training Commission's internal policy that certifications for individuals who complete the Basic Course while employed as Special Law Enforcement Officers Class II are valid for only three