

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 15**
APPLICANT FOR THE POSITION OF)
PROBATIONARY POLICE OFFICER,) **(Applicant No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated February 23, 2022, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision (“Notice”).

In an undated letter filed with the Police Board on April 22, 2023, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and bringing to the Board’s attention additional facts directly related to the reason(s) for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”).

On May 21, 2023, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). Applicant did not file a Reply. Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, and Response.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

Filings by the Parties

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago, and the Response was filed within the time period allowed by the Police Board Rules of Procedure.

According to Department's Notice, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason:

- IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

D. Disqualification Based on Prior Employment

1. Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is critical to the proper functioning and administration of the Chicago Police Department (CPD), which in turn is vital to the Chicago Police Department's ability to protect the public. A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis.
3. Further, an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment.

Applicant was disqualified by Department based on the following employment history submitted in his January 12, 2022 Personal History Questionnaire ("PHQ"):

1. Applicant was employed as an energy consultant for Twin Supplies from November,

2013 to October, 2019. Applicant vacated that position to take a position with the CPD as a probationary police officer (“PPO”).

2. Applicant worked as a PPO for less than a year, from October 16, 2019-August 21, 2020. Applicant’s PPO position required him to wipe down COVID squad cars.
3. Applicant resigned from his PPO position and returned to Twin Supplies after being offered a job that he found easier.

Appeal and Response

Applicant appeals the decision, stating that Department ignored the “totality of the circumstances” related to his decision to voluntarily resign his position as PPO. He states that he is deeply committed to serving and protecting the community, and believes that he has the skills, dedication and integrity necessary to be a police officer for the CPD.

Department’s Response states that the appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant’s file. Department maintains that the Pre-Employment Disqualification Standard under which Applicant’s disqualification decision was based upon is clear (namely, Disqualification Based on Prior Employment History). Department states that the evidence in Applicant’s file supports its decision to disqualify Applicant from hiring, and the Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O’Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

Department also notes that Applicant’s lack of professional work ethic in the face of the pandemic’s unique challenges are contrary to the proper functioning and administration of the CPD. Department states that Applicant’s work history demonstrates that he would not be able to fulfill one of the CPD’s Core Values: **#4 Dedication.**

Findings of Fact

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove

his name from the Eligibility List. It assessed that Applicant's Prior Employment History with Twin Supplies and CPD show an unsteady employment history and a lack of dedication, making him unsuitable for employment. Department articulated the Standard by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Applicant states that his impeccable work history and professional conduct speaks volumes about his "character and suitability" to be a police officer. He states that he voluntarily resigned from his position as a PPO, and the decision to remove him from the Eligibility List is one-sided. Applicant believes that the Investigator did not look at the totality of the circumstances, and believes that he has a good employment history that does not contain a basis for disqualification.

Applicant stresses that while he understands the importance of a thorough background investigation, when considering his past achievements and contributions, he has all of the skills, dedication and integrity necessary to be a Chicago Police Officer.

Conclusions of Law

Prior Employment History

Section D (1) states: "Police officers are required to work well with other officers, public officials, and members of the public, as well as maintain a professional work ethic. Further, a police officer's ability and willingness to obey orders is critical to the proper functioning and administration of the Chicago Police Department (CPD), which in turn is vital to the Chicago Police Department's ability to protect the public. A steady employment history is an indication that, among other things, an applicant has the ability to work well with others; follow workplace rules; perform his or her work to acceptable standards; and come to work on time and on a regular basis."

Applicant's employment history in his January 12, 2022 PHQ revealed that he was employed with Twin Supplies as an energy consultant for approximately six (6) years, then terminated that position to become a PPO. While he was working as a PPO, Applicant received an offer from Twin Supplies, and he "caved." He states that he took the "easy way out," rather than wiping squad cars for COVID while temporarily assigned to one of the districts.

Section D (3) states: "Further, an applicant who, during previous employment, has engaged in any conduct that would have violated the Chicago Police Department's Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration, may be found unsuitable for employment."

Less than a year after he began working as a PPO, Applicant resigned from the position (while still on probation) and returned to Twin Supplies. Based on Applicant's willingness to terminate his positions at both Twin Supplies and the CPD (along with the short amount of time that Applicant worked for the CPD), Department believes that Applicant lacks Dedication, Core Value #4 of the CPD.

In addition, Department assessed that Applicant showed a lack of professional work ethic in the face of the pandemic's unique challenges when he resigned from the CPD while assigned to wipe down COVID squad cars. Department found that Applicant's actions were contrary to the proper "functioning and administration" of the CPD.

Applicant states that he has an impeccable work history, and notes that he had no written reprimands on his record when he resigned from his position as PPO. It can also be assumed that Applicant had a good work history with Twin Supplies, as he worked there consistently for nearly six years, and even after leaving, was presented with an offer to

return.

Nothing in the record indicates that Applicant does not work well with others, follow workplace rules, perform his work to acceptable standards, or come to work on a regular basis. There is also nothing in the file stating that he failed to obey orders or maintain a professional work ethic. The only possible violation of Section D(1) would be Applicant's resignation from Twin Supplies to work for the CPD, and vice versa.

Likewise, there is insufficient evidence to conclude that Applicant's work history violated Section D(3). Although Section D(3) states that an applicant may be found unsuitable for employment for "sporadic employment, evidenced by frequent changes in employment of short duration," Applicant worked for Twin Supplies consistently for almost six years, and left that position to become a PPO.

While Applicant's actions of voluntarily resigning his position as PPO while still on probation could arguably constitute a change of employment in short duration, section D(3) applies when the Applicant has a "**history**" of sporadic employment, evidenced by "**frequent**" changes in employment of short duration. Even with a "history" of sporadic employment with frequent changes in employment, section D(3) states that an applicant "**may**" be found unsuitable for employment.

In its Response, Department also states that Applicant showed a lack of Dedication (CPD Value #4) and personal duty to his work by resigning while assigned to wipe down COVID squad cars. Although Applicant stated that he took the "easy way out," Department itself stated that the pandemic presented "unique challenges."

Applicant was hired to work as a PPO in October, 2019, just prior to the pandemic. A few months later, while Applicant was still on probation, the pandemic hit, and he was assigned to wipe down COVID squad cars. Upon information and belief, during that time in 2020, there was

widespread panic over the causation, severity, and duration of COVID, and hundreds (if not thousands) of people were contracting COVID and dying daily. Wiping down COVID squad cars (and potentially taking the virus home to family members and friends) presented an unprecedented challenge that many people can only imagine.

There was no evidence presented that Applicant refused to perform his duties as a PPO, and he never received a written reprimand. During the same time period, Applicant was presented an offer to return to his former company, and he accepted. Applicant voluntarily resigned his position as a PPO and took an “easier” position at Twin Supplies. Applicant then re-applied to CPD to fulfill his desire to serve and protect the community.

Applicant appears to have been disqualified solely because he left a PPO position for another position while on probation, then re-applied. However, there is no Standard or Rule presented by Department that mandates disqualification for Applicants who were previously hired by Department but failed to complete the probationary period. Therefore, Department disqualified Applicant based on his “Prior Employment History,” and labeled his work history as “sporadic.”

Applicant states that he had an impeccable work history prior to his employment as a PPO, and that he voluntarily resigned his position with no reprimands on his record. He states that his work history and professional conduct speaks volumes about his character and suitability for a position as a PPO. He asserts that he is “deeply committed to serving and protecting the community,” and has the skills, dedication, and integrity necessary to do so as a member of the CPD.

Due to the unique circumstances of the pandemic, along with a lack of sufficient evidence to show that Applicant has a poor work ethic or a “history” of sporadic employment, the facts as

presented do not support disqualification based on Applicant's Prior Employment History.

For the reasons stated above, Applicant has shown, by a preponderance of the evidence, that the decision to remove him from the Eligibility List was erroneous.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **reversed**.

Respectfully submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: July 12, 2023

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 9 in favor (Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Jorge Montes, and Andreas Safakas) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [Name redacted] from the list of eligible applicants for the position of probationary police officer is **reversed**, and he is **reinstated to the eligibility list**.

This decision and order are entered by a majority of the members of the Police Board:
Ghian Foreman, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley,
Michael Eaddy, Jorge Montes, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF JULY, 2023.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director