

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **NO. 23 AA 07**
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 October 16, 2022, the Office of Public Safety Administration (the “Office”) gave Applicant written notice of its decision to remove her from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reasons for the disqualification decision (“Notice”).

On November 8, 2022, Applicant appealed this decision to the Police Board by filing a written request specifying why the Department of Police erred in the factual determinations underlying the disqualification decision and bringing to the Police Board’s attention additional facts directly related to the reasons for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”).

The Chicago Police Department (the “Department”) did not file a response to the Appeal.

Appeals Officer Cooper has reviewed the Notice and Appeal.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Cooper, 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

On November 8, 2022, Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago. Notably, the Department did not file a response.

According to the Notice, Applicant was removed from the Eligibility List solely due to her failure to cooperate with the City of Chicago and the Chicago Police Department (collectively, the “City”) during the application process. Specifically, the Notice alleges that, at some point in the application process, Applicant stopped answering emails and telephone calls and/or was otherwise incommunicado.

In her Appeal, Applicant disputes that the City attempted to contact her on certain occasions, apologizes for not responding on other occasions and maintains that her failure to communicate was due, at least in part, to health problems that have presumably now been resolved. (Appeal at pgs. 1-2.)

Applicant, a former National Guardsman, asks to be given a second chance to achieve her “goal and aspiration to continue to serve [her] community as a Chicago Police Officer.” (*Id.* at pg. 2.)

Findings of Relevant Facts

Biographical Information

Applicant is a thirty-two-year-old female. (Notice at pg. 2.) At some unspecified time, she was honorably discharged from the Army National Guard. (Appeal at pg. 2.)

Communications Between City and Applicant

The City's Claims

The City claims that, at some point in the hiring process, Applicant stopped answering and/or responding to its emails and telephones calls. (Notice at pg. 3.) Specifically, the City maintains that, on August 8, 2022, it emailed Applicant to notify her that she needed to take a training class at the Chicago Police Academy. (*Id.*) The City further states that it asked Applicant to respond to this email and inform it as to whether Applicant intended to continue with the hiring process. (*Id.*) The City states that it never received a response from Applicant. (*Id.*)

The City also maintains that, on October 3, 2022, it telephoned Applicant at the telephone number she provided as part her application to see whether she wished to continue with the hiring process. (*Id.*) The City states that while it was not able to connect with Applicant during this call, it left her a voicemail requesting a return call. (*Id.*) The City claims it never received a response from Applicant. (*Id.*)

The City claims that it last had contact with Applicant on July 28, 2022 (*Id.*)

Applicant's Claims

While Applicant does not specifically deny receiving the August 8, 2022 email, she maintains that she does not have any record of the email. (Appeal at pg. 1.)

Moreover, Applicant states that, on September 8, 2022, she had a telephone conversation with [Name redacted]. of the Chicago Police Department. (*Id.*) During this conversation, Applicant states that she told [Name redacted]: (1) that she was never told by anyone that she needed to attend certain training sessions; (2) that she was not medically cleared to participate in physical activities; and (3) that she was still waiting for clearance from her doctor. (*Id.*)

Applicant further maintains that, on that same day she spoke with [Name redacted], she received a follow-up email from him. (*Id.*) This email is attached as Attachment 1 to Applicant’s Appeal. (*Id.* at pg. 3.)

While Applicant acknowledges that she received a call from the City on October 3, 2022, she maintains that she was not able to answer the call because it was sent during work hours and she is not able to answer personal calls while at work. (*Id.* at pg. 2.)

Applicant’s Medical History

In her Appeal, Applicant claims that one of the reasons why she did not return the City’s October 3, 2022 call was because she was preoccupied with ongoing health issues. (*Id.* at pgs. 1-2.) Specifically, Applicant claims that, ever since leaving the armed services, she has suffered severe lower extremity pain and that, on September 15, 2022, she was diagnosed with bilateral compartment syndrome. (*Id.*) According to her Appeal, Applicant was scheduled to have surgery on November 16, 2022. (*Id.*) Applicant expects to make a full recovery within three to four months following surgery. (*Id.*; *see also* Appeal at Attachments 2-5.)

Disqualification Decision and Appeal

Due to her failure to communicate, on October 16, 2022, the Office of Public Safety Administration (the “Office”) sent Applicant written notice of its decision to remove her from the Eligibility List. (*See Notice.*) This appeal followed.

Conclusions of Law

Standard of Review

Pursuant to Section 2-84-035(c) of the Municipal Code of Chicago, an applicant

challenging the decision to remove him or her from the Eligibility List has the burden of showing, by a preponderance of the evidence, that the decision was erroneous.

***Disqualification Based on False Statements or Omissions and/or
Failure to Cooperate in the Application Process***

Special Order 18-01 (the “Special Order”) contains the “Pre-Employment Disqualification Standards for Applicants for the Position of Police Officer.” (See Special Order 18-01.) Under section IV(I) of the Special Order, the Chicago Police Department may disqualify an applicant from consideration for a police officer position based on the applicant’s failure to cooperate in the application process. (*Id.* at pg. 9.)

Specifically, section IV(I)(1) of the Special Order provides, in relevant part, that

1. ... Honest and complete answers to background questions asked of applicants during the application process, *as well as full cooperation with the application process. are thus extremely important to the maintenance of the Chicago Police Department's force and the integrity of its hiring process. Therefore, applicants are required to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer shall be disqualified. Prohibited conduct within this category includes, but is not limited to: failure to provide any required information; failure to respond to requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed.*

(*Id.*) (emphasis added.)

In support of its decision to remove Applicant from the Eligibility List, the City claims that during the hiring process, Applicant stopped answering emails and telephone calls. (Notice at pg. 3). The City further claims that it was last in contact with Applicant on July 28, 2022.

While Applicant recognizes that she should have been more communicative with the City, the mixed record in this case along with other extenuating circumstances militate in favor of granting Applicant's Appeal and overruling the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer.

For example, while the record reveals that Applicant did not respond to at least one telephone call from the City (the October 3, 2022 call), there is conflicting evidence regarding whether Applicant ever received the August 8, 2022 email that serves as the other basis for the City's decision to remove Applicant from the Eligibility List. (*Compare* Notice at pg. 3 with Appeal at pg. 1.)

Moreover, an email attached to Applicant's Appeal, reveals correspondence between Applicant and a CPD employee on September 8, 2022, casting serious doubt on the City's claims that it last had contact with Applicant on July 28, 2022.

Finally, Applicant has explained that at least some of her failure to communicate with the City can be attributed to the fact that she was understandably distraught and distracted by a presumably now-resolved medical problem.

Applicant's acceptance of responsibility, status as a veteran and the mixed record in this case all suggest that the decision to remove Applicant from the Eligibility List based solely on her failure to communicate was erroneous and Applicant should be given another opportunity to achieve her "goal and aspiration to continue to serve [her] community as a Chicago Police Officer." (Appeal at pg. 2.)

Finally, it is worth noting that the Department did not file a response to Applicant's Appeal.

Recommendation

Based on the 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/ Kyle A. Cooper

Appeals Officer

Date: February 8, 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 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) 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 the Applicant 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 A. Block, Mareilé B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes.

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

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director