

4-10-03

FILED



DEPARTMENT OF FINANCIAL SERVICES

MAY 20 2003

FILED
MAY 20 11:25
COMMUNICATIONS

AT

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

02-4445

SFM-CLOS

IN THE MATTER OF:

CASE NO.: 61611-02-FM

RICHARD JOHN OLLO

_____ /

FINAL ORDER

THIS CAUSE came on for consideration and final agency action. On September 20, 2002, a Notice of Denial was issued by the Department of Insurance, Division of the State Fire Marshal (now known as the Department of Financial Services) denying Petitioner Richard John Ollo's application for licensure as a firefighter. The denial was based on Petitioner's failure to pass the practical portion of the Minimum Standard test and subsequent re-test. Petitioner timely filed a request for a proceeding pursuant to Section 120.57(2), Florida Statutes. Pursuant to notice, this matter was heard before Lisa S. Santucci, Department of Financial Services Hearing Officer, on September 10, 2002.

After consideration of the record and argument presented, the Hearing Officer issued her Written Report and Recommended Order on September 23, 2002. (Attached as Exhibit A). The Hearing Officer recommended that the Respondent deny Petitioner's application for licensure as a firefighter. Finding that issues of fact were in dispute, on October 29, 2002, the Department issued an Order referring the matter to the Division of Administrative Hearings. Pursuant to notice, this matter was heard before the Honorable Suzanne F. Hood, the assigned Administrative Law Judge for the Division of Administrative Hearings, on February 28, 2003.

On April 10, 2003, the Administrative Law Judge recommended that a Final Order be entered denying Petitioner's application for licensure. Respondent filed post-hearing exceptions.

RULINGS ON RESPONDENT'S EXCEPTIONS

Respondent excepts to the Recommendation of the Recommended Order. Petitioner contends that Recommended Order should provide that in addition to denial of licensure, Petitioner must also be required to retake the Minimum Standards training course as provided in Section 633.35, F.S., and Rule 4A-37.056(6)(f), F.A.C. Given the Findings of Fact and Conclusions of Law, it is clear that an applicant who is denied licensure after two attempts at passing the written and practical examinations would be required to retake the Minimum Standards training course. As a result, this exception is adopted.

Upon careful consideration of the record, the submissions of the parties, and being otherwise fully advised in the premises, it is ORDERED:

1. The Findings of Fact of the Hearing Officer are adopted in full as the Department's Findings of Fact.
2. The Conclusions of Law of the Hearing Officer are adopted in full as the Department's Conclusions of Law.
3. The Administrative Law Judge's recommendation that the Department enter a Final Order denying the application of the Petitioner for licensure as a firefighter and a requirement that the Petitioner retake the Minimum Standards course prior to sitting for the certification examination is approved and accepted as being the appropriate disposition of this case.

ACCORDINGLY, Petitioner Richard John Ollo's application for licensure as a firefighter is DENIED, and the Respondent is required to retake the Minimum Standards training course before again sitting for the certification examination.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of the Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla.R.App.P. Review proceedings must be instituted by filing a petition or Notice of Appeal with the General Counsel, acting as the agency clerk, at 200 East Gaines Street, Tallahassee, FL 32399-0333, and a copy of the same and the filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

DONE and ORDERED this 29TH day of MAY, 2003.




Tom Gallagher
Chief Financial Officer

COPIES FURNISHED TO:

Honorable Suzanne F. Hood
Administrative Law Judge
Division of Administrative Hearings
The Desoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Lisa Santucci
Hearing Officer
Division of Legal Services
612 Larson Building
Tallahassee, Florida 32399-0333

Mark D. Dreyer, Esquire
747 Jenks Avenue, Suite G
Panama City, Florida 32401

Attorney for the Petitioner

Elenita Gomez, Esquire
Division of Legal Services
612 Larson Building
Tallahassee, Florida 32399-0333

Attorney for the Department of Financial Services