

NJ Court Clarifies Ability of Public Employee's Ability to Challenge Termination

by Sean D. Dias on April 16, 2013

The Appellate Division recently considered the legal recourse available to a public employee upon termination. *Doyle v. Lakewood Township* specifically involved a non-tenured tax collector who was not entitled to civil service protection.

The Facts of the Case

Defendant Lakewood Township dismissed plaintiff Anne Doyle from her position as tax collector. Doyle subsequently appealed the termination to the New Jersey Civil Service Commission, which declined jurisdiction because Doyle was a non-tenured employee and was not entitled to civil service protection. She then sought judicial review of the employment decision, but the motion judge granted the Township's motion to dismiss for lack of jurisdiction. It found Doyle was an at-will employee without civil service or other statutory job protection.

On appeal, Doyle conceded that she was not entitled to the termination procedures set forth in N.J.S.A. 40A:9-145.8, which concerns the tenure rights of municipal tax collectors. Instead, she argued that the motion judge erred as a matter of law because she was entitled to challenge her dismissal in the Superior Court pursuant to the provisions of N.J.S.A. 40A:9-140.9.

The Court's Decision

The Appellate Division upheld the dismissal, rejecting Doyle's argument that N.J.S.A. 40A:9-140.9 applies to all municipal employees. Instead, the court held that the statute applies only to municipal chief financial officers.

As explained in the opinion, the statute in question was first drafted in 1971 when the Legislature created the position of municipal finance officer. It was later amended to include provisions providing for tenure rights for municipal chief financial officers and a process for their removal, which included the right to judicial review. However, the court clarified that such rights were only granted to municipal chief financial officers.

"Municipal tax collectors are governed by a different statutory scheme, which is found at N.J.S.A. 40A:9-141 to -145.12. The removal provision for tax collectors, found at N.J.S.A. 40A:9-145.8(c), does not apply to Doyle...," the justices concluded.

For more information about this case or the legal issues involved, we encourage you to contact a member of Scarinci Hollenbeck's Public Law Group.