

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)	
[NAME REDACTED],)	No. 24 AA 44
APPLICANT FOR THE POSITION OF)	
POLICE OFFICER,)	(Candidate No. [redacted])
CITY OF CHICAGO.)	

MEMORANDUM AND ORDER

[Name redacted] (hereinafter referred to as “Applicant”) applied for a police officer position with the City of Chicago. In a letter dated May 15, 2024, the Office of Public Safety Administration (“OPSA”) gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants (“Eligibility List”) for this position due to the results of a background investigation, along with the reason(s) for the disqualification decision (“Notice”).

On May 22, 2024, an attorney (“Counsel for Applicant”) filed a letter notifying the Police Board that his firm had been retained by Applicant to appeal the disqualification decision and stating that all correspondence should be communicated to the firm.

On Friday, July 12, 2024, via an email message sent at 11:43pm, Counsel for Applicant filed with the Police Board a Motion for Extension seeking a one-day extension to file the appeal. The reason given for the Motion for Extension was that Counsel for Applicant “will be out of the office on Monday, July 15th on a personal matter.” The Motion for Extension acknowledged that the due date for the appeal was Monday, July 15, 2024.

On Tuesday, July 16, 2024, the executive director of the Police Board replied to Counsel for Applicant’s July 12 email message stating: “The Police Board will need to rule on this motion. In the meantime, the appeal should be filed today.” Counsel for Applicant filed the appeal of the disqualification decision later that day, July 16, 2024.

The Police Board has considered Applicant’s Motion and, for the reasons set forth below, denies the Motion for Extension.

The Board Lacks Authority to Extend the Appeal Deadline

Under Section 2-84-035(f) of the Municipal Code of Chicago, “[i]f an applicant does not file a timely appeal as provided in subsection (b), such applicant *shall be deemed* to have waived his or her right under this section to appeal the Department’s decision to remove the applicant from the eligibility list.” (emphasis added). The language “shall be deemed to have waived,” on its face, requires the Police Board to presume and mandate a waiver for appeals filed after the 60-day deadline.

Appeal deadlines are a jurisdictional matter, which cannot be tolled. *Austin Gardens, LLC v. City of Chi. Dep’t of Admin. Hearings*, 2018 IL App (1st) 163120, ¶ 21, 420 Ill. Dec. 282, 286, 96 N.E.3d 367, 371 (2018). And because the Municipal Code does not contain any provisions allowing for the extension of appeal deadlines, the Board lacks authority to take such action. *J & J Ventures Gaming, LLC v. Wild, Inc.*, 2015 IL App (5th) 140092, ¶ 35, 395 Ill. Dec. 317, 38 N.E.3d 194 (“Since an administrative agency . . . is a creature of statute, its jurisdiction or authority must be found within the provisions of the statute by which it acts.”) (quoting *Byington v. Department of Agriculture*, 327 Ill. App. 3d 726, 730, 261 Ill. Dec. 961, 764 N.E.2d 576, 579–80 (2002)); *Lesner v. Police Bd. of City of Chi.*, 2016 IL App (1st) 150545, ¶ 22, 55 N.E.3d 1206, 1213 (“Administrative agencies, such as the police board, exercise purely statutory powers and possess no inherent or common-law powers.”); *Walczak v. Hum. Rts. Comm’n*, 2024 IL App (1st) 221497-U, ¶ 26, appeal pending (Nov Term 2024) (An agency “exceeds its jurisdiction where it acts beyond the scope of its statutorily derived authority.”); *Mercury Sightseeing Boats, Inc. v. Cnty. of Cook*, 2019 IL App (1st) 180439, ¶ 55, 142 N.E.3d 777

(“When ‘an agency acts outside its statutory authority,’ we often say that the agency ‘acts without jurisdiction.’”) (quoting *Business & Prof’l People for the Pub. Interest v. Ill. Commerce Comm’n*, 136 Ill. 2d 192, 243, 144 Ill. Dec. 334, 555 N.E.2d 693 (1989)); *Pickering v. Ill. Hum. Rts. Comm’n*, 146 Ill. App. 3d 340, 352, 99 Ill. Dec. 885, 893, 496 N.E.2d 746, 754 (1986) (“An administrative agency is analogous to a court of limited jurisdiction and can act only pursuant to the authority conferred on it by statute. Any action outside the authority granted by its enabling statute is void.”) (internal citations omitted).

Accordingly, Applicant’s appeal shall be deemed waived. *See Modrytzkji v. City of Chi.*, 2015 IL App (1st) 141874, ¶ 12, 42 N.E.3d 14, 19; *Austin Gardens, LLC v. City of Chi. Dep’t of Admin. Hearings*, 2018 IL App (1st) 163120, ¶¶ 30-31, 96 N.E.3d 367, 374.

POLICE BOARD ORDER

IT IS HEREBY ORDERED that, for the reasons set forth above, Applicant’s Motion for Extension is **denied** and Applicant’s appeal of the disqualification decision is therefore **dismissed**.

This order is entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Claudia Badillo, Steven Block, Mareil  Cusack, Kathryn Liss, and Justin Terry.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 21st DAY OF NOVEMBER 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director