

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

GIOVANNI ARROYO,

Appellant

v.

**BOSTON FIRE
DEPARTMENT,**

Respondent

Case No.: G1-12-66

ORDER OF DISMISSAL

On February 23, 2012, the Appellant filed an appeal with the Civil Service Commission (Commission), contesting his non-selection to the position of firefighter by the Boston Fire Department (Department).

On April 3, 2012, a pre-hearing conference was held at the offices of the Commission, which was attended by the Appellant, counsel for the Department (Robert Boyle) and the Department's Director of Human Resources (Robert Moran).

The facts relevant to this appeal are as follows:

1. On April 24, 2010, Mr. Arroyo took and passed a written examination for firefighter, receiving a score of 97.
2. On March 18, 2011, HRD forwarded Special Certification No. 204542 (Spanish-speaking candidates) to the Department with a sufficient number of names to meet the statutory "2n + 1" formula from which they could appoint fifteen (15) Spanish-speaking individuals.
3. On December 27, 2011, the Department notified Mr. Arroyo that he was being bypassed for appointment due to this failure to return a completed application.
4. At the pre-hearing conference, it was determined that Mr. Arroyo never received an application because, upon signing Certification No. 204542, he indicated that his Spanish-speaking abilities were "intermediate" as opposed to "fluent".
5. Also at the pre-hearing conference, the Department agreed to have the Boston Language Institute, the vendor used to assess candidates' Spanish-speaking abilities, administer an examination to determine if Mr. Arroyo was fluent in Spanish. Mr. Arroyo accepted the offer and indicated that he was available at any time to take the examination.

6. On April 23, 2012, the Department notified the Commission that Mr. Arroyo was unable to attend an examination on April 3, 2012 due to a scheduling conflict.
7. Mr. Arroyo was instructed by the Department to call the Boston Language Institute directly and schedule an appointment.
8. According to the Department, Mr. Arroyo arranged to be tested on April 17, 2012, but failed to appear. The Department incurred the \$300 cost associated with the examination.

CONCLUSION

In order to be considered from a special Spanish-speaking Certification, a candidate must demonstrate that he/she is proficient in Spanish. Mr. Arroyo failed to attend an examination to verify his Spanish proficiency. Thus, the Department was justified in bypassing him for appointment.

For this reason, Mr. Arroyo's appeal under Docket No. G1-12-66 is hereby *dismissed*.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on May 3, 2012.

A True Record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision.

Notice to:
Giovanni Arroyo (Appellant)
Robert Boyle, Esq. (for Respondent)
John Marra, Esq. (HRD)