

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

STEPHEN BAEZ,
Appellant

v.

CITY OF LAWRENCE,
Respondent

Docket Number: G1-25-191

Appearance for Appellant: *Pro Se*
Stephen Baez

Appearance for Respondent: Thomas Costello, Esq.
Valerio Dominello & Hillman LLC
One University Avenue
Suite 300B
Westwood, MA 02090

Commissioner: Christopher C. Bowman

SUMMARY OF ORDER OF DISMISSAL

The Commission dismissed the Appellant's bypass appeal after concluding that no bypass occurred as no candidate ranked below him was appointed to the position of Lawrence firefighter.

ORDER OF DISMISSAL

On August 14, 2025, the Appellant, Stephen Baez (Appellant), filed an appeal with the Massachusetts Civil Service Commission (Commission) after being notified by the City of Lawrence that he had been bypassed for appointment as a firefighter. On September 16, 2025 I held a remote pre-hearing conference, which was attended by the Appellant and counsel for the City.

UNDISPUTED FACTS

Based on the documents submitted and the statements at the pre-hearing conference as well as information received after the pre-hearing conference, the following is undisputed, unless otherwise noted:

1. On October 14, 2023, the Appellant took the written portion of the examination for firefighter, followed by the entry-level physical abilities test portion of the examination, administered by the state's Human Resources Division (HRD).
2. On March 19, 2024, HRD established the eligible list for Lawrence firefighter.
3. On March 11, 2025, HRD sent Certification No. 10384 to the City to appoint firefighters.
4. The Appellant's name appeared tied for 12th on the Certification.
5. The City appointed 10 candidates as firefighters, all of whom had the same or a higher rank on the certification as the Appellant.
6. The Appellant was not selected for appointment.
7. The City subsequently erroneously notified the Appellant that he had been bypassed for appointment and that he had a right of appeal to the Commission.
8. After the pre-hearing conference, the City retracted the bypass letter, as he was not bypassed, and sent the Appellant a non-selection letter based confirming that he was not reachable for appointment given his rank order and the number of appointments made.

RULE REGARDING DISMISSAL FOR LACK OF JURISDICTION

The Presiding Officer may at any time, on his or her own motion or that of a Party, dismiss a case for lack of jurisdiction to decide the matter, for failure of the Petitioner to state a claim upon which relief can be granted, or because of the pendency of a prior, related action in any tribunal that should first be decided. 801 CMR 1.01 (7)(g)(3).

RELEVANT CASELAW REGARDING SELECTION AMONG TIED CANDIDATES

The Commission has long held that the appointment of a candidate among those with the same rank on a Certification is not a bypass. See Edson v. Reading, 21 MCSR 453 (2008) (upheld by Superior Court *sub nom.* Edson v. Civil Service Comm'n, Middlesex Sup. Ct. No. 08-CV3418 (2009)); Bartolomei v. Holyoke, 21 MCSR 94 (2008); Coughlin v. Plymouth, 19 MCSR 434 (2006); Kallas v. Franklin School Dep't, 11 MCSR 73 (1998); Servello v. Dep't of Correction, 28 MCSR 252 (2015). See also Thompson v. Civil Service Comm'n, Suffolk Superior Ct. No. MICV 1995-5742 (1996) (concluding that selection among tied candidates does not present a bypass); Massachusetts Ass'n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 261 (2001) ("In deciding bypass appeals, the commission must determine whether the appointing authority has complied with the requirements of Massachusetts civil service law for selecting lower scoring candidates over higher scoring candidates); Cotter v. Boston, 193 F. Supp. 2d 323, 354 (D. Mass. 2002) (citing HRD's guide), rev'd in part on other grounds, 323 F.3d 160 (1st Cir. 2003) ("when a civil service exam results in a tie -score, and the appointing authority ... promotes some but not all of the candidates, no actionable 'bypass' has taken place in the parlance of ... civil service").

ANALYSIS

The misstep here by the City is unfortunate. By erroneously notifying the Appellant that he had been bypassed and had a right of appeal to the Commission, they provided the Appellant with misinformation and wasted his time and effort related to the appeal process. However, it is undisputed that the Appellant was not bypassed for appointment and, thus, the Commission lacks jurisdiction to hear his bypass appeal. For this reason, and because the Appellant opted not to withdraw his appeal with the Commission, an order of dismissal is warranted here.

CONCLUSION

The Appellant's appeal under Docket No. G1-25-191 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on October 16, 2025.

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)(l), 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. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:
Stephen Baez (Appellant)
Thomas Costello, Esq. (for Respondent)