

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

JOSE BRUM,
Appellant
v.

**CITY OF TAUNTON &
HUMAN RESOURCES
DIVISION,**
Respondent

Case No.: G1-11-2

**DECISION ON REQUEST FOR RELIEF UNDER
CHAPTER 310 OF THE ACTS OF 1993**

The Appellant, Jose Brum, and the City of Taunton (City) have jointly petitioned the Civil Service Commission (Commission) to grant the Appellant relief under Chapter 310 of the Acts of 1993. The state's Human Resources Division (HRD) does not oppose the relief requested.

From December 27, 2000 to December 19, 2002, the Appellant was employed as a part-time provisional junior custodian for the City.

On December 20, 2002, it appears that the Appellant began working full-time as a provisional junior custodian for the City.

On May 17, 2003, the Appellant took and passed an open competitive civil service examination for junior custodian. He received a score of 78.

On November 1, 2003, HRD established an eligible list of candidates for the position of junior custodian in the City of Taunton. The Appellant's name appeared on that eligible list.

Prior to 2003, whenever a civil service examination was administered for a title or titles in which they employed provisional employees, the City sought permanency for those incumbent provisional civil service employees who took and passed the examination via a "provisional population process (PPP) appeal" to HRD and the Commission.

According to the City, they failed to submit such a PPP request at the time for the Appellant because of administrative oversight.

On April 22, 2009, the Appellant transferred to the Taunton Municipal Light Company (TMLC), a separate Appointing Authority. Sometime after this transfer, he discovered that he was not considered a permanent civil service employee. The appeal to the Commission followed.

The TMLC currently employs two other custodians in addition to the Appellant. Those two other custodians have permanent civil service seniority dates of September 11, 1989 and July 23, 1990 respectively.

The Appellant seeks a permanent civil service seniority date back to when he passed the junior custodian civil service examination in 2003. The City supports his request and HRD does not oppose it.

For all of the above reasons, the Appellant's request is allowed and, pursuant to Chapter 310 of the Acts of 1993, the Commission orders that the Appellant's permanent civil service seniority date in the position of junior custodian for the City of Taunton be established as November 1, 2003, the date upon which the relevant eligible list was established by HRD.

In regard to the Appellant's transfer to the TMLP, all relevant provisions of paragraph 4 of G.L. c. 31, § 33 still apply.

Further, this order is not intended to provide the Appellant with any retroactive compensation.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein and McDowell, Commissioners [Marquis – Absent]) on February 24, 2011.

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. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

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

Notice to:
Michael Muse, Esq. (for Appellant)
Maria V. Gomes (for City of Taunton)
Lyndsey Boyle, Esq. (for HRD)