

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

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

WILLIAM J. CHISHOLM,
Appellant

v.

D-07-409

BOSTON FIRE DEPARTMENT,
Respondent

Appellant's Attorney:

Pro Se

[REDACTED]

Respondent's Attorney:

Jordan Ablon, Esq.
Assistant Corporation Counsel
City of Boston
Office of Labor Relations
Boston City Hall: Room 624
Boston, MA 02201

Commissioner:

Donald R. Marquis

DECISION ON RESPONDENT'S MOTION TO DISMISS

The Appellant, William Chisholm (hereafter "Appellant"), filed a disciplinary appeal form with the Civil Service Commission on November 28, 2007. As part of the Appellant's appeal form, he indicated that he was appealing the Boston Fire Department's (hereafter "City") decision to deny him "modified duty". Further, the Appellant wrote on the appeal form that "the City offered me nothing retire (sic) or terminate" and referenced a January 31, 2006 decision by the City.

A pre-hearing conference was conducted by the Commission on January 17, 2008 at which time the City filed a Motion to Dismiss the Appellant's appeal. As part of its Motion to Dismiss, the City argued that the Appellant's appeal was not timely. Specifically, the City stated in part, "Chisholm acknowledges that he received the notice of the decision to place him on disability retirement on January 31, 2006, twenty-three months prior to the filing of his appeal". (emphasis added)

In response to the City's Motion to Dismiss, and at the request of the Commission, the Appellant filed an answer, in the form of a letter, with the Commission on February 13, 2008. In his letter, the Appellant states that he has filed appeals with various state agencies and raised issues of alleged discrimination. Finally, the Appellant stated in the letter that his appeal was now moot, but wanted the Commission to be aware of the frustration and communication problems he has had with the City.

It does not appear that the Commission has jurisdiction over the subject matter in the Appellant's appeal. Moreover, the appeal was received by the Commission twenty-three months after the decision referenced in the Appellant's appeal, far beyond the 10-day statutory filing deadline for such appeals. Finally, the Appellant has informed the Commission that his appeal is now moot.

For all of the above reasons, the Appellant's appeal under Docket No. D-07-409 is hereby *dismissed*.

Civil Service Commission

Donald R. Marquis, Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Guerin, Henderson, Marquis and Taylor, Commissioners) on February 28, 2008.

A true record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a 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 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:

William Chisholm (Appellant)

Jordan Ablon, Esq. (for Appointing Authority)