

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

MICHAEL A. DONOVAN,
Appellant

v.

HUMAN RESOURCES DIVISION,
Respondent

Docket Number:

B2-24-117

Appearance for Appellant:

Nourhene Chtourou, Esq.
Barrault and Associates, LLC
3 Boulevard Street
Milton, MA 02108

Appearance for Respondent:

Ashlee Logan, Esq.
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Boston, MA 02114

Commissioner:

Paul M. Stein

SUMMARY OF DECISION ON APPELLANT’S MOTION FOR RECONSIDERATION

After further reviewing the documents submitted by a fire captain examination applicant, the Commission denied the candidate’s motion for reconsideration as there was no error or significant factor that the Commission overlooked when issuing its decision.

DECISION ON APPELLANT’S MOTION FOR RECONSIDERATION

On July 16, 2024, the Appellant, Michael A. Donovan, a Lieutenant with the City of Cambridge, MA Fire Department (CFD), appealed to the Civil Service Commission

(Commission)¹, after the state’s Human Resources Division (HRD) denied his request for review of his score on the Experience, Certification, Training & Education (ECT&E) component of the April 27, 2024 statewide Fire Captain examination. [By decision dated January 9, 2025](#), the Commission allowed HRD’s Motion for Summary Decision and dismissed the appeal. On January 20, 2025, the Appellant filed a Motion for Reconsideration asserting that the Appellant had raised a factual issue that the Commission’s decision overlooked, thus requiring an evidentiary hearing. HRD opposed the motion. After carefully considering the Appellant’s Motion for Reconsideration, I find that it does not “identify a clerical or mechanical error in the decision or a significant factor that the [Commission] or the Presiding Officer may have overlooked in deciding the case” as required by 801 C.M.R. 1.01(7)(l) as a condition to the Commission’s reconsideration of a final decision. Accordingly, the Appellant’s Motion for Reconsideration is denied.

The Commission’s decision concluded that the Appellant had failed to comply with HRD’s instruction that required the submission of an on-line E&E claim form prior to the established deadline or, if there were technical problems with meeting the deadline, to email HRD with the necessary claim documents prior to the deadline. HRD’s motion asserted that it had no record that the Appellant took either step. The Appellant acknowledged that he knew of these requirements. Accordingly, the Commission adhered to a long-line of prior decisions upholding HRD’s determination that a candidate who does not comply with the requirements for submission of an E&E claim would receive an “INCOMPLETE” score for that examination component.

In this appeal, the Commission’s decision left one opening for the Appellant to seek a reconsideration, stating:

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 (formal rules), apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

[T]he record may be a bit ambiguous as to what, precisely, the Appellant sent to HRD on May 5, 2024 and May 6, 2024. On this record, however, I must find that there was only one email sent on May 5, 2024 and one on May 6, 2024, neither of which attached the required claim forms or supporting documents. If there is something that I have overlooked, however, the Appellant is free to raise that matter by way of a timely motion to reconsider. Otherwise, under the standards for decision of a motion for summary decision, I must conclude that there is no “reasonable expectation” that the Appellant can dispute HRD’s position that no such claim or supporting documents were provided either on-line or by email.

The Appellant submitted no new documents or information with the Motion for Reconsideration. Rather, the Appellant now asserts that the Commission overlooked the fact that the documents originally submitted by the Appellant “at the very least, creates a dispute of fact as to what he did to comply with HRD’s instructions and contact HRD prior to his 11:59 pm deadline, for which a full hearing by this Commission is necessary to resolve such.”

The Commission’s decision clearly stated that the record before it was not sufficient to raise a factual issue as to whether the Appellant complied with the requirements for submission of his claim by providing his claim documents via email to HRD. I have re-reviewed the record and find nothing to change that conclusion. The Appellant has pointed to nothing specific, other than speculation that he should have the chance to prove that HRD “lost” his emails and/or documents, to support a request for an evidentiary hearing. Nothing in the Motion for Reconsideration changes the Commission’s finding that the Appellant has not submitted any such documents to HRD (or the Commission) to raise above a speculative level any reasonable likelihood that he could prevail in this appeal.

For the reasons stated above, the Appellant’s Motion for Reconsideration is denied.

Civil Service Commission

/s/Paul M. Stein

Paul M. Stein
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney & Stein, Commissioners) on March 6, 2025.

Notice to:

Nourhene Chtourou, Esq (for Appellant)
Ashlee Logan, Esq. (for Respondent)