

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503

Boston, MA 02108

(617) 727-2293

LIZETTE EMMA,

Appellant

v.

D1-16-194

DEPARTMENT OF CORRECTION,

Respondent

Appearance for Appellant:

Stephen Schultz, Esq.

Engel & Schultz, LLP

One Federal Street, Suite 2120

Boston, MA 02110

Appearance for Respondent:

Jody Brenner, Esq.

Amy Hughes, Esq.

Department of Correction

P.O. Box 946: Industries Drive

Norfolk, MA 02056

Commissioner:

Christopher C. Bowman

RESPONSE TO REQUEST FOR CLARIFICATION

On July 6, 2017, the Civil Service Commission (Commission) issued a decision allowing Ms. Emma's appeal in part under Docket No. D1-16-194, modifying Ms. Emma's termination to a 15-day suspension.

On September 8, 2017, counsel for Ms. Emma filed a "Request for Clarification" with the Commission, asking the Commission to "clarify" how the relief granted by the Commission relates to such issues as: health insurance premiums, unemployment insurance payments, interest on any back pay due and vacation buy-back provisions in the collective bargaining agreement.

The matters raised in the request for clarification do not necessitate the application of the Commission's expertise. Even if any disputed factual issues exist that would be relevant to the determination of damages, the Court may properly resolve such issues, as well as any legal issues outlined in the Appellant's request. See, e.g., White v. City of Boston, 57 Mass. App. Ct. 356 (2003) (discussing *Superior Court's* calculation of back pay amount for police officer for period between entitlement to reinstatement and date he was actually reinstated; considering whether back pay amount included assumed overtime and detail pay); Selectmen of Framingham v. Municipal Court of Boston, 11 Mass. App. Ct. 659 (1981) (considering, in review of civil service commission decision reinstating a police officer, whether statutory language requiring that wrongfully terminated employee be reinstated "without loss of compensation" included special detail pay that officer could have expected to earn during the period following his discharge).

For these reasons, no action by the Commission is required here. Nothing in this response is meant to prevent the Appellant from proceeding with an action in Superior Court, if desired.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on October 26, 2017.

Notice:
Stephen Schultz, Esq. (for Appellant)
Jody Brenner, Esq. (for Appointing Authority)
Amy Hughes, Esq. (for Appointing Authority)