

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

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

CHRISTOPHER FALCO,
Appellant

v.

G2-07-243

CITY OF QUINCY,
Respondent

Appellant's Attorney:

Pro Se
Christopher Falco

Respondent's Attorney:

David F. Grunebaum, Esq.
Labor Counsel
City of Quincy
1305 Hancock Street
Quincy, MA 02169

Commissioner:

Christopher C. Bowman

DECISION ON RESPONDENT'S MOTION TO DISMISS

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, Christopher Falco, filed a bypass appeal with the Civil Service Commission on July 13, 2007, claiming he was bypassed for promotional appointment to the position of Special Heavy Motor Equipment Operator (MEO) within the City of Quincy's Department of Public Works.

As part of a pre-hearing conference conducted on September 24, 2007 at the Commission, the City of Quincy sought to dismiss the Appellant's appeal on three grounds. The City subsequently filed a formal Motion to Dismiss with the Commission and the Appellant filed a response.

In its Motion to Dismiss, the City argues that the instant appeal should be dismissed as the Appellant is not a permanent civil service employee, the appeal is untimely and there was no bypass as the individual selected for this promotional labor service appointment had more seniority than the Appellant. The Pro Se Appellant was given an opportunity to address each of these issues at the pre-hearing conference in addition to filing a written response with the Commission.

Both at the pre-hearing conference and in his written response, the Appellant did not offer information disputing the three arguments proffered by the City in its Motion to Dismiss, including the argument that he is not a permanent civil service employee. Further, there is no dispute that the Appellant was aware of the alleged “bypass” on March 15, 2007. He did not file an appeal with the Commission until July 13, 2007, well beyond the sixty-day filing requirement for such appeals that has been effective since October 1, 2000. Finally, there is no dispute that the candidate selected had more seniority than the Appellant for the labor service promotional appointment in question.

For all of the above reasons, the Appellant’s appeal under Docket No. G2-07-243 is hereby *dismissed*.

Civil Service Commission

Christopher C. Bowman, Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Guerin, Henderson, Marquis and Taylor, Commissioners) on October 11, 2007.

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. 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:

Christopher Falco (Appellant)

David F. Grunebaum, Esq. (for Appointing Authority)

John Marra, Esq. (HRD)