

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

DONNA M. FERNANDES,
Appellant

C-17-125

v.

DEPARTMENT OF CORRECTION,
Respondent

Appearance for Appellant:

Pro Se
Donna M. Fernandes

Appearance for Respondent:

Joseph Santoro
Department of Correction
P.O. Box 946: Industries Drive
Norfolk, MA 02056

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On June 15, 2017, the Appellant, Donna M. Fernandes (Ms. Fernandes), who is employed by the Department of Correction (DOC), filed a reclassification appeal with the Civil Service Commission (CSC).
2. Ms. Fernandes is requesting a reclassification from Clerk V to Clerk VI.
3. On July 11, 2017, I held a pre-hearing conference at the offices of the Commission, which was attended by Ms. Fernandes and a DOC representative.
4. It is undisputed that DOC denied the request for reclassification and that Ms. Fernandes appealed DOC's decision to the state's Human Resources Division (HRD), but HRD has not issued a decision regarding her appeal at this time.

Applicable law

G.L. c. 30, § 49 states in relevant part:

“A manager or an employee of the commonwealth objecting to any provision of the classification affecting the manager or employee's office or position may appeal in writing to the personnel administrator [HRD] ... Any manager or employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it ...”

Analysis / Conclusion

This appeal was filed with the Commission prematurely. HRD has not issued a decision regarding the appeal filed by Ms. Fernandes. Ms. Fernandes must receive a determination from HRD prior to filing an appeal with the Commission.

For this reason, Ms. Fernandes's appeal under CSC Docket No. C-17-125 is hereby **dismissed**.

As discussed at the pre-hearing conference, Ms. Fernandes may file a new appeal with the Commission if and when HRD denies her appeal, with no additional filing fee required.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman

Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan) on July 20, 2017.

Either party may file a motion for reconsideration within ten days of the receipt of this 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 this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice:

Donna M. Fernandes (Appellant)

Joseph Santoro (for Respondent)