

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

MARK FOLAN,

Appellant

B2-23-144

v.

HUMAN RESOURCES DIVISION,

Respondent

Appearance for Appellant:

Mark Folan, *Pro Se*

Appearance for Respondent:

Melissa Thomson, Esq.
Labor Counsel
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Commissioner:

Paul M. Stein

Summary of Decision

The Commission dismissed the Appellant’s appeal regarding the marking of multiple-choice questions from the Boston Fire Captain promotional examination for lack of jurisdiction and his appeal related to the scoring of the education, certifications, training/licenses and **experience** (ECT&E) component was dismissed as it is not disputed that the Appellant now has received all ECT&E credits he was due.

DECISION ON MOTION TO DISMISS

On August 10, 2023, the Appellant, Mark Folan, appealed to the Civil Service Commission (Commission)¹, for review of the scores he received on his “written exam component” (Technical Knowledge – TK and Situational Judgment – SJ) and his education, certifications, training/licenses

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.

and education (ECT&E) component of the Boston Fire Captain Promotional Exam administered by the state's Human Resources Division (HRD) on March 25, 2023.

I held a remote pre-hearing conference on this appeal on September 20, 2023. At the pre-hearing conference, it appeared that the Appellant understood that the Commission lacked jurisdiction to review HRD's scoring of the TK and SJ written exam components and that the Appellant had received an explanation from HRD that satisfied him that his ECT&E score had been calculated correctly. Accordingly, by Procedural Order following the pre-hearing conference, the Appellant was allowed until October 4, 2023 to withdraw his appeal and, if he did not do so, HRD would file a Motion to Dismiss, which HRD has done. The Appellant has not filed an opposition.

Accordingly, as the Commission has no jurisdiction over the scoring of the TK and SJ test components, and there appears to be no further relief that the Appellant seeks from the Commission, for the reasons stated in HRD's Motion to Dismiss, the Appellant's appeal under Docket B2-23-144 is hereby *dismissed*.

Civil Service Commission

/s/Paul M. Stein

Paul M. Stein, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Stein, and Tivnan, Commissioners [McConney – Absent]) on November 2, 2023.

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:

Mark Folan (Appellant)

Melissa Thomson, Esq. (for Respondent)