

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503

Boston, MA 02108

(617) 979-1900

AIDAN GILLIS,

Appellant

v.

E-22-070

CHELMSFORD POLICE DEPARTMENT,

Respondent

Appearance for Appellant:

Pro Se

Aidan Gillis

Appearance for Respondent:

Brian Maser, Esq.

KP Law, PC

101 Arch Street, 12th Floor

Boston, MA 02110

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

The Commission dismissed the Appellant's non-bypass equity appeal as his request for a retroactive civil service seniority date was premature since the state's Human Resources Division (HRD) had not issued a determination at the time the Appellant filed an appeal with the Commission. Further, after HRD did subsequently issue a determination, the Appellant chose not to contest that determination with the Commission.

DECISION

On May 13, 2022, the Appellant, Aidan S. Gillis (Appellant), filed an appeal with the Civil Service Commission (Commission), seeking to have his civil service seniority date as a police officer in the Town of Chelmsford (Town) set as February 2, 2015. On May 18, 2022, the Commission sent notice to the Appellant, the Town and the state's Human Resources Division (HRD) regarding a remote pre-hearing conference to be held on June 14, 2022 at 8:30 A.M. On June 13, 2022, HRD provided the Commission and the parties with information relative to this appeal. Also on June 13, 2022, the Appellant filed a copy of the local collective bargaining agreement to the Commission that he wished to be reviewed as part of the pre-hearing conference to be held the following day.

On June 14, 2022, I opened the remote pre-hearing conference at 8:30 A.M. Present were: the Town's Police Chief; counsel for the Town; and counsel for HRD. The Appellant did not appear, despite receiving a reminder email and voice mail. Later that morning, the Appellant forwarded an email to the Commission seeking to reschedule the pre-hearing. Although the pre-hearing did not go forward, I did obtain additional information from the Town and HRD regarding the Appellant's employment dates. Based on that information, as well as the information previously provided by the Appellant, it appears that the following is not in dispute:

- A. On February 2, 2015, the Appellant was appointed as a police officer in the Town of Chelmsford, which the Town notified HRD of via a Form 14.
- B. On March 9, 2021, the Appellant took a leave of absence from his position as a Chelmsford police officer.
- C. Effective April 30, 2021, the Appellant resigned from his position as a Chelmsford police officer, which the Town notified HRD of via a Form 56.

D. Effective September 27, 2021, the Town, at the request of the Appellant, reinstated the Appellant to the position of police officer. As of the date of the pre-hearing, HRD had not received a Form 10 from the Town and, as such, had not made any adjustment to the Appellant's status and/or civil service seniority date. The Town's Police Chief, believing that the Form 10 had been previously sent, agreed to send the form to HRD forthwith.

Section 33 of G.L. c. 31 states in relevant part that:

“ ... Length of service shall be computed from the first date of full-time employment as a permanent employee, including the required probationary period, in the department unit, regardless of title, unless such service has been interrupted by an absence from the payroll of more than six months, in which case length of service shall be computed from the date of restoration to the payroll; but upon continuous service following such an absence for a period of twice the length of the absence, length of service shall be computed from the date obtained by adding the period of such absence from the payroll to the date of original employment ...”

HRD had informed the Town that, when applying Section 33 to the facts here, the Appellant's seniority date, after continuous reemployment of twice the interrupted service, the Appellant's civil service seniority date should be adjusted “... by adding the period of such absence from the payroll to the date of original employment.” As referenced above, the Appellant was seeking to have his civil service seniority date adjusted back to his original date of appointment, February 2, 2015. Based on the information provided by the Appellant, it appeared that the Appellant was seeking this adjustment in his *civil service* seniority date to put him in a more favorable position regarding benefits provided for in the *collective bargaining agreement* between the Town and the local police officers' union. Whether or not an adjusted civil service seniority would impact his CBA seniority date is beyond the jurisdiction of the Commission. In regard to the civil service law, the only practical application of a more favorable civil seniority

date would arise in the event of layoffs of Chelmsford police officers sometime in the future, which occur in the order of civil service seniority.

The Appellant's appeal was also filed with the Commission prematurely, as HRD had not received any information from the Town regarding an adjustment to the Appellant's status and/or civil service seniority date. For all of the above reasons, I ordered, via a Procedural Order on June 20, 2022, that: 1) The Town shall provide HRD with the Form 10 referenced above and all relevant information that would allow HRD to adjust the Appellant's civil service seniority date; 2) HRD, upon receipt, shall provide the Appellant and the Commission with a determination regarding his adjusted civil seniority date which shall include a breakdown of how (and why) the adjustment was made; and 3) Should the Appellant, given the potential limited applicability of any relief by the Commission, wish to appeal HRD's determination, he could, within 10 days of being notified by HRD, provide the Commission with a renewed request to reschedule the pre-hearing conference. Should no request be received by the Appellant within 10 days of the HRD determination, the Appellant was notified that his appeal would be dismissed forthwith.

On August 19, 2022, HRD notified the Town of the following determination regarding the Appellant's civil service seniority date:

“Regarding Aidan Gillis' reinstatement, here is a breakdown of his adjusted seniority date. Original start date 02/02/2015. Break in service with the LOA is 6 months 17 days. He would need to work 1 year and 34 days to get a new seniority date of 08/19/2015. He would have to work twice the amount of his LOA time **6 months 17 days x2 = 1 year 34 days**. Once he has completed his 1 year 34 days he would be eligible for his new seniority date, by adding the 6 months 17 days on to his original start date of 02/02/2015 to get a new start date of 08/19/2015. On 10/31/2022 (1 year 34 days from his reinstatement date 09/27/2021) he will receive his new seniority date of 08/19/ 2015.”

Also on August 19, 2022, the Commission notified the Appellant that the 10-day deadline referenced in the Procedural Order began running on that date (August 19th).

The Appellant did not file anything further with the Commission within 10 days.

Conclusion

Since the Appellant's appeal with the Commission was filed prematurely, and because the Appellant did not contest HRD's subsequent determination regarding his seniority, his appeal under Docket No. E-22-070 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman

Christopher Bowman

Chair

By a vote of the Civil Service Commission (Bowman, Chair; Stein and Tivnan, Commissioners) on September 8, 2022.

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 to:

Aidan S. Gillis (Appellant)

Brian Maser, Esq. (for Respondent)

Chief James Spinney (Chelmsford Police Department)