

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

PATRICK T. GORMAN,

Appellant

v.

B1-23-113

HUMAN RESOURCES DIVISION,

Respondent

Appearance for Appellant:

Patrick T. Gorman, *Pro Se*

Appearance for Respondent:

Ashlee N. Logan, Esq.
Labor Counsel
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Commissioner:

Paul M. Stein

DECISION ON RESPONDENT’S MOTION TO DISMISS

On July 23, 2023, the Appellant, Patrick T. Gorman, filed an appeal with the Civil Service Commission (Commission), contesting his Experience, Certification/Training/Licenses and Education (ECT & E) score. The Appellant took the exam for the position of Boston Fire Lieutenant on March 25, 2023 and received his score on June 15, 2023. His ECT&E score included credit for an “unrelated” associate’s degree. The Appellant sought a review of his ECT&E score, claiming that his degree qualified as a “related degree”. On August 2, 2023, HRD reviewed the Appellant’s documentation and awarded him credit for a “related associate’s degree and agreed to adjust his ECT&E score and his overall test score accordingly.

I held a remote pre-hearing conference on August 9, 2023. The Appellant did not appear for the pre-hearing conference. HRD filed a Motion to Dismiss the appeal on the grounds that the Appellant’s appeal was now moot. The Appellant filed no response to the Motion to Dismiss.

APPLICABLE LEGAL STANDARD

The Commission may, on motion or upon its own initiative, dismiss an appeal at any time for lack of jurisdiction or for failure to state a claim upon which relief can be granted. 801 CMR 1.01(7)(g)(3). A motion to resolve an appeal before the Commission, in whole or in part, via summary decision may be filed pursuant to 801 C.M.R. 1.01(7)(h). An appeal may be disposed of, however, on summary disposition only when, “viewing the evidence in the light most favorable to the non-moving party”, the undisputed material facts affirmatively demonstrate that the non-moving party has “no reasonable expectation” of prevailing on at least one “essential element of the case”. See, e.g., Milliken & Co. v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249 (2008); Lydon v. Massachusetts Parole Board, 18 MCSR 216 (2005).

ANALYSIS

The undisputed facts, viewed in a light most favorable to the Appellant, establish that, for the reasons stated within HRD’s Motion to Dismiss, this appeal must be dismissed as moot. The Appellant has received full and proper credit he claimed for a “related” associate’s degree.

CONCLUSION

For the reasons stated above, HRD’s Motion to Dismiss is *allowed*, and the Appellant’s appeal under Case No. B1-23-081 is *dismissed as moot*.

Civil Service Commission

/s/Paul M. Stein

Paul M. Stein, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney, Stein, and Tivnan, Commissioners) on August 24, 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:

Patrick T. Gorman (Appellant)

Ashlee N. Logan, Esq. (for Respondent)