

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

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

MATTHEW J. GREALISH,
Appellant
v.

G1-08-25

REGISTRY OF MOTOR VEHICLES,
Respondent

Appellant's Attorney:

Pro Se
Matthew J. Grealish



Respondent's Attorney:

Robert M. Horacek, Esq.
Legal Counsel
Registry of Motor Vehicles
Ten Park Plaza
Boston, MA 02116-3969

Commissioner:

Donald R. Marquis

DECISION ON APPOINTING AUTHORITY'S MOTION TO DISMISS

Procedural Background

The Appellant, Matthew J. Grealish, (hereafter "Appellant" or "Grealish") is appealing the decision of the Registry of Motor Vehicles (hereafter "Appointing Authority" or "RMV") to not provisionally appoint him to the position of "Driver License Examiner". Specifically, the Appellant, a veteran, argues that the RMV did not provide him with the statutory preference granted to him under G.L. c. 31, § 26 when making the provisional appointments in question.

A pre-hearing conference was held at the offices of the Commission on February 28, 2008 at which time the Appointing Authority filed a Motion to Dismiss the Appellant's

appeal. The Appellant filed an Answer to the Motion to Dismiss with the Commission on March 24, 2008.

Factual Background

On or about July 30, 2007, the Appellant submitted an application for posting ID: J10574, one driver license examiner posting for Watertown, Massachusetts and an application for posting ID J10571, one driver license examiner posting for Quincy, Massachusetts. Both of the positions were to be filled via provisional appointments under G.L. c. 31, § 12 as no civil service examination for the position in question has been given for many years and, hence, there is no civil service eligibility list for this position.

All applicants were rated based on a 100-question multiple choice examination given by the RMV; education and related certifications; and the applicant's performance on an interview. The Appellant, based on the above-referenced factors, scored lower than 23 of the 34 total applicants. Of the 23 who scored higher than the Appellant, 11 applicants were veterans. The RMV selected two of the higher-ranked veterans to fill the two vacancies in question.

Conclusion

G.L. c. 31, § 26 states in relevant part:

“An appointing authority shall appoint a veteran in making a provisional appointment under section twelve, unless such appointing authority shall have obtained from the administrator a list of veterans who, within the twelve months next preceding, have filed application for the kind of work called for by such provisional appointment, shall have mailed a notice of the position vacancy to each of such veterans and shall have determined that none of such veterans is qualified for or is willing to accept the appointment.”

It is undisputed that the RMV filled the two vacancies in question with veterans. Therefore, there can be no question that they complied with G.L. c. 31, § 26, which provides veterans with a preference regarding provisional appointments. For this reason, the Appellant's appeal under Docket No. G1-08-25 is hereby *dismissed*.

Civil Service Commission

Donald R. Marquis, Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Guerin, Henderson, Marquis and Taylor, Commissioners) on April 10, 2008.

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:

Matthew J. Grealish (Appellant)

Robert M. Horacek, Esq. (for Appointing Authority)

John Marra, Esq. (HRD)