

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

PIERRE GRENIER,
Appellant

v.

B2-16-147

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Pierre Grenier

Appearance for Respondent:

Mark Detwiler, Esq.
Human Resources Division
One Ashburton Place: Room 211
Boston, MA 02108

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On August 19, 2016, the Appellant, Pierre Grenier (Mr. Grenier), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the state's Human Resources Division (HRD) to deny him credit for his Education and Experience (E&E) exam component, resulting in his receipt of a failing score on the 2016 District Fire Chief examination and exclusion from the eligible list.

On September 6, 2016, I held a pre-hearing conference at the offices of the Commission which was attended by Mr. Grenier and counsel for HRD.

It is undisputed that the District Fire Chief examination for the Springfield Fire Department was administered on May 21, 2016 and that the deadline for submitting an online E&E application was May 28, 2016. At the pre-hearing conference, Mr. Grenier stated that he

completed the online E&E claim on or before May 28th. Counsel for HRD stated that HRD has no record of Mr. Grenier ever submitting an online E&E claim.

Subsequent to the pre-hearing conference, HRD, at my request, and with the assent of Mr. Grenier, accessed Mr. Grenier's online account to see what applications were submitted. On November 16, 2016, the Exam Administration Coordinator at HRD who accessed the account submitted an affidavit to the Commission regarding his findings, accompanied by a series of screen shots. In short, the affidavit, and the accompanying screen shots, establish that Mr. Grenier did not submit an online E&E claim for the District Fire Chief examination in question.

Legal Standard

G.L. c. 31, § 2(b) addresses appeals to the Commission regarding persons aggrieved by "... any decision, action or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations" It provides, *inter alia*,

"No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record."

Pursuant to G.L. c. 31, § 5(e), HRD is charged with: "conduct[ing] examinations for purposes of establishing eligible lists."

G.L. c. 31, § 22 states in relevant part: "In any competitive examination, an applicant shall be given credit for employment or experience in the position for which the examination is held."

G.L. c. 31, § 24 allows for review by the Commission of exam appeals. Pursuant to § 24, "...[t]he commission shall not allow credit for training or experience unless such training or experience was fully stated in the training and experience sheet filed by the applicant at the time designated by the administrator."

In Cataldo v. Human Resources Division, 23 MCSR 617 (2010), the Commission stated that “... under Massachusetts civil service laws and rules, HRD is vested with broad authority to determine the requirements for competitive civil service examinations, including the type and weight given as ‘credit for such training and experience as of the time designated by HRD.’ G.L. c. 31, § 22(1).”

Analysis

After reviewing the affidavit from HRD’s Exam Administration Coordinator, along with the accompanying screen shots, I have concluded that Mr. Grenier did not submit his online E&E claim. For this reason, Mr. Grenier’s appeal is *denied*.

As previously noted by the Commission, however, it is somewhat perplexing that HRD takes the draconian step of issuing a failing score on the entire examination when an individual does not submit the E&E claim online and/or on time. While it is logical that the exam taker would receive no *E&E credit* when this occurs, it is NOT logical to effectively invalidate the *entire* examination, including the written portion. Although that decision falls under HRD’s broad authority to administer examinations, I would encourage HRD to reconsider that policy.

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, Commissioners) on December 8, 2016.

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)(1), 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:

Pierre Grenier (Appellant)

Mark Detwiler, Esq. (for Respondent)

Courtesy Copy:

Maite Parsi, Esq. (Springfield Fire Department)