

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

One Ashburton Place
Room 503
Boston, Massachusetts 02108

MICHAEL HAWTHORNE,
Appellant

v.

E-19-140
I-19-153

WESTFIELD FIRE COMMISSION,
Respondent

Appearance for Appellant:

Pro Se
Michael Hawthorne

Appearance for Respondent:

Jeffrey Krok, Esq.
City of Westfield
59 Court Street
Westfield, MA 01085

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On July 10, 2019, the Appellant, Michael Hawthorne (Captain Hawthorne), a Captain for the Westfield Fire Department (WFD), filed a “non-bypass equity appeal” with the Civil Service Commission (Commission), stating: “I was made Temporary Captain July 6th 2018 in a permanent vacancy. On June 27, 2019, I was made permanent with no break in service or return to a lower rank. I was made temporary off HRD certified list number 05603. I am requesting that this yr. count as time in grade for seniority purposes.”
2. On August 14, 2019, I held a pre-hearing conference at the Springfield State Building in Springfield, MA which was attended by Captain Hawthorne, the City’s Fire Chief and counsel for the City.
3. As part of the pre-hearing conference, Mr. Hawthorne indicated that, upon review of Commission decisions, he was now aware that the Commission does not grant “promotional” civil service seniority dates. Rather, there is only one “civil service seniority date”, the date of original appointment.
4. As part of the pre-hearing conference, the Fire Chief indicated that, at all applicable times referenced in Captain Hawthorne’s appeal, he was serving either as a permanent, temporary or provisional Captain, thus ensuring that he would receive all applicable education and experience credit due in any future promotional examination.

5. Also, as part of the pre-hearing conference, it was stipulated that, at no time was Captain Hawthorne bypassed for promotional appointment.
6. The remaining issues raised by Captain Hawthorne involved collective bargaining agreement (CBA)-related issues involving time in grade and preference for shifts, vacations, etc., all issues that fall outside the purview of the Commission.

Conclusion

For all of the above reasons, Captain Hawthorne's appeal under Docket No. E-19-140 is hereby dismissed.¹²

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman,
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on September 12, 2019.

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 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. 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:
Michael Hawthorne (Appellant)
Jeffrey Krok, Esq. (for Respondent)
Fire Chief Patrick M. Egloff (Westfield Fire Department)

¹ Consistent with the discussion at the pre-hearing conference, the Westfield Fire Commission will ensure that all records submitted to HRD indicate that, at all relevant times, Captain Hawthorne served in a Permanent, Temporary or Provisional capacity, as opposed to "Acting".

² Captain Hawthorne, for primarily the same reasons discussed as part of this appeal, filed a separate "request for investigation which was given a CSC Tracking No. of I-19-153. For the same reasons referenced in this decision, that request for investigation is denied.