NOTIFY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 1684CV03732

RECEIVED
DEC 13 2017
MA Off. of Attorney General
Administrative Law Division

NAZA HAYNES

vs.

CITY OF SOMERVILLE AND CIVIL SERVICE COMMISSION

MEMORANDUM AND ORDER ON DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS AND PLAINTIFF'S CROOS-MOTION FOR JUDGMENT ON THE PLEADINGS

A hearing was held on November 30, 2017 on the parties cross motion for judgment on the pleadings. The standard of judicial review of Civil Service Commission's decision is set forth in G. c. 30A section 14(7). The Court's review is limited to determine whether the decision was supported by substantial evidence and was not arbitrary, capricious or otherwise not in accordance with the law. A court's review is highly deferential to the agency, according due weight to its experience, technical competence and specialized knowledge of the agency and to the discretionary authority conferred upon it. The reviewing Court must accept the factual determinations made by the agency if it finds they are supported by substantial evidence.

Plaintiff has failed to timely file his motion for judgment on the pleadings. Standing Order 1-96 of the Superior Court requires the Plaintiff's Rule 12 c motion and supporting memorandum be served within thirty days of the service of the record. Failure to serve a timely motion for judgment on the pleadings pursuant to this Order has resulted in dismissal of

Notice sent 12.11.17 J.A.P.
N.A.M.
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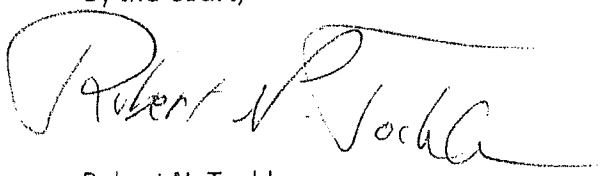
the Plaintiff's motion for judgment on the pleadings. Plaintiff has failed to show good cause for failing to comply with the Order. His motion therefore is dismissed. The Court's ruling would be no different however even upon reaching the merits of his claims.

The Commission's decision was based upon substantial evidence. The Plaintiff focuses much of his argument on whether Ms. A may have been flirting with him and upon her deletion of certain text messages. The weight to be accorded to these issues is left to the Commission. The Court does not decide issues of credibility.

Moreover the Commission did not abuse its discretion when it denied the Plaintiff's request for a subpoena. The Plaintiff's request was simply overbroad.

For the foregoing reasons the Plaintiff's motion for judgment on the pleadings is **DENIED**, the Defendant's City of Somerville's cross-motion for judgment on the pleadings is **ALLOWED**.

By the Court,



Robert N. Tochka
Associate Justice of the
Superior Court

December 4, 2017