

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108

MAUREEN HOSPEDALES,
Appellant

v.

D1-16-067

BOSTON PUBLIC SCHOOLS,
Respondent

Appearance for Appellant:

Pro Se
Maureen Hospedales

Appearance for Respondent:

Hilary K. Detmold, Esq.
Boston Public Schools
2300 Washington Street
Boston, MA 02119

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On April 6, 2016, the Appellant, Maureen Hospedales (Ms. Hospedales), a former senior clerk / school secretary for the Boston Public Schools (BPS), filed an appeal with the Civil Service Commission (Commission). The appeal form filed by Ms. Hospedales indicated that she was appealing a notice of termination that she received on July 4, 2015.

On April 19, 2016, I held a pre-hearing conference at the offices of the Commission that was attended by Ms. Hospedales and counsel for the Boston Public Schools. Counsel for the Boston Public Schools stated that she would be filing a Motion to Dismiss the appeal as it was not filed with the Commission within ten (10) business days of July 4, 2015.

As part of the pre-hearing conference, Ms. Hospedales stated that she was uncertain when she received the termination notice. Also, the parties discussed a prior workers compensation case which, according to documents provided by Ms. Hospedales, appeared to have been settled with the payment of a lump sum payment.

Notwithstanding those documents, Ms. Hospedales stated that she was confused about the status of that workers compensation case and was unsure why she received a lump sum, and that she had not cashed it. With the assent and agreement of both parties, I contacted the attorney who represented Ms. Hospedales on the workers compensation case.

Per my conversation with the workers compensation attorney, which was limited to information that is part of the public record, Ms. Hospedales, as part of a quasi-judicial proceeding, signed off on a settlement agreement which terminated the workers compensation benefits and provided for a lump sum. Ms. Hospedales has also filed an application for accidental disability retirement benefits, for which she is represented by another attorney.

In light of the above, I issued a Procedural Order giving Ms. Hospedales the opportunity to review the terms of the settlement agreement of the workers compensation claim, and, after consulting with counsel, to determine whether she wished to go forward with her appeal at the Civil Service Commission.

Since no withdrawal was received by April 29, 2016, the BPS, consistent with the Procedural Order, had ten days thereafter to file a Motion to dismiss the appeal after which Ms. Hospedales had ten days to file a reply.

On May 5, 2015, the BPS filed a Motion to Dismiss. No reply was received from Ms. Hospedales.

Based on the appeal form submitted by Ms. Hospedales, she received the notice of termination from BPS on July 4, 2015. That letter states Ms. Hospedales was being terminated as she was permanently disabled and unable to return to work. The letter states that Ms. Hospedales may seek a review of their decision by filing an appeal with the Civil Service Commission within ten (10) days.

The appeal is not timely. G.L. c. 31, § 43 requires that disciplinary appeals be filed with the Commission “within ten [business] days after receiving written notice of such [local] decision.” Ms. Hospedales received notice of her termination on July 4, 2015. To be timely, an appeal form needed to be submitted to the Commission on or before July 17, 2015. The appeal here was not received by the Commission until April 6, 2016, more than eight (8) months beyond the statutory deadline.

For this reason, Ms. Hospedales’s appeal under Docket No. D1-16-067 is hereby *dismissed*.

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 May 26, 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)(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 to:

Maurren Hospedales (Appellant)

Hilary Detmold, Esq. (for Respondent)