

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

DAVID IZATT,
Appellant

v.

D-20-010

CITY OF CHICOPEE,
Respondent

Appearance for Appellant:

Karen Betournay, Esq.
NAGE / IBPO
1299 Page Boulevard
East Springfield, MA 01104

Appearance for Respondent:

Thomas J. Rooke, Esq.
City of Chicopee Law Department
73 Chestnut Street
Springfield, MA 01103

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On January 14, 2020, the Appellant, David Izatt (Mr. Izatt), a police officer in the City of Chicopee (City)'s Police Department, filed an appeal with the Civil Service Commission (Commission).
2. On the appeal submitted to the Commission, Mr. Izaatt stated that the basis of his appeal was that the City "refused vacation time after reinstated via c. 32." He attached a denial of a Step 3 grievance from the City's Mayor dated November 27, 2019 stating:

"As Mr. Izatt was previously fully compensated for his earned vacation time when he separated from the City's employment in 2017 and he was not returned to service until the spring of 2019, he is not entitled to vacation time as claimed by the IBPO."
3. On February 12, 2020, I held a pre-hearing conference at the Springfield State Building in Springfield, MA which was attended by counsel for both parties. At that time, counsel for the City submitted a motion to dismiss, arguing that the Commission lacks jurisdiction over

this matter, as it relates to a collective bargaining issue regarding whether Mr. Izatt was entitled to certain vacation benefits in 2019.

4. At the pre-hearing conference, I heard oral argument from both parties regarding whether the Commission has jurisdiction over this matter.

Analysis / Conclusion

The Commission does not have jurisdiction to hear this appeal. This is not a disciplinary matter and it does not relate to the discharge, removal, suspension; lowering in rank or compensation of Mr. Izatt.

Rather, it fits squarely into a collective bargaining issue related to if and when vacation time should have been accrued / credited to the Appellant.

For this reason, the City's Motion to Dismiss is allowed and the Appellant's appeal under Docket No. D-20-010 is hereby *dismissed*.

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 February 27, 2020.

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:

Karen Betournay, Esq. (for Appellant)
Thomas J. Rooke, Esq. (for Respondent)