

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

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

MICHAEL LaCHAPPELLE,  
Appellant

v.

G2-18-107

TOWN OF AGAWAM,  
Respondent

Appearance for Appellant:

Shawn P. Allyn, Esq.  
Allyn & Ball, P.C.  
480 Hampden Street  
Holyoke, MA 01040

Appearance for Respondent:

Russell Dupere, Esq.  
94 North Elm Street, Suite 307  
Westfield, MA 01085

Commissioner:

Christopher C. Bowman

**ORDER OF DISMISSAL**

1. On June 7, 2018, the Appellant, Michael LaChappelle (Mr. LaChappelle), filed a bypass appeal with the Civil Service Commission (Commission), regarding his non-selection for promotional appointment to the labor service title of Working Foreman by the Town of Agawam (Town).
2. On June 7, 2018, I had a pre-hearing conference at the Springfield State Building in Springfield, MA, which was attended by Mr. LaChappelle, his counsel and counsel for the Town.
3. As part of the pre-hearing conference, the parties stipulated that: a) the Town filled one (1) vacancy for the labor service position of Working Foreman through a promotional appointment; b) Mr. LaChappelle was the second (2<sup>nd</sup>) most senior person willing to accept the promotional appointment; c) the Town promoted another employee who was not among the three (3) most senior employees willing to accept the promotional appointment.<sup>1</sup>

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<sup>1</sup> It appeared that the Town, as part of this promotional process, did not identify the exact titles of individuals that would be eligible for consideration.

4. Consistent with prior Commission decisions, I advised the Town that, in the context of this appeal, the Town would need to show that at least one of the candidates within the statutory “2N + 1” formula was “not qualified” in order for the Town to justify a labor service promotional appointment of someone who was not among the three (3) most senior employees eligible and willing to accept appointment.
5. On August 8, 2018, I held a status conference that was attended by the same individuals who attended the pre-hearing conference.
6. On August 14, 2018, the Town notified the Commission and counsel for the Appellant that the position was being re-posted.
7. The decision by the Town to re-post the position make the current appeal moot.

For this reason, Mr. LaChappelle’s appeal is *dismissed*.<sup>2</sup>

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 November 8, 2018.

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:

Shawn Allyn, Esq. (for Appellant)  
Russell Dupere, Esq. (for Respondent)

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<sup>2</sup> As part of these proceedings, there was general agreement by the parties that a decision by the Town to re-post this position would make the appeal moot and that the Appellant would file a voluntary withdrawal of his appeal. No notice of withdrawal was received.