

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

KELLY LESAGE,
Appellant

v.

D1-19-074

WORCESTER PUBLIC SCHOOLS,
Respondent

Appearance for Appellant:

Pro Se
Kelly Lesage

Appearance for Respondent:

Sean P. Sweeney, Esq.
311 Village Green North, Suite A4
Plymouth, MA 02360

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On March 22, 2019, the Appellant, Kelly Lesage (Ms. Lesage), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Worcester Public Schools (WPS) to terminate her employment as a Public Health Nurse.
2. On April 23, 2019, I held a pre-hearing conference at the offices of the Commission, which was attended by Ms. Lesage and counsel for the WPS.
3. As part of the pre-hearing conference, there was a discussion regarding whether Ms. Lesage's union, the Massachusetts Nurses Association (MNA), would be filing a demand for arbitration to contest her termination.
4. I informed the parties that, if and when a demand for arbitration was filed by the MNA, the Commission would lack jurisdiction to hear the instant appeal.
5. On May 20, 2019, the WPS filed a Motion to Dismiss, stating that the MNA had filed a demand for arbitration on April 30, 2019, with an acknowledgment from the American Arbitration Association (AAA) attached to the motion.

6. Ms. Lesage did not file a reply to the WPS's Motion to Dismiss.

Analysis / Conclusion

G.L. c. 31, s. 43 states in relevant part:

“If the commission determines that such appeal has been previously resolved or litigated with respect to such person, in accordance with the provisions of section eight of chapter one hundred and fifty E, or is presently being resolved in accordance with such section, the commission shall forthwith dismiss such appeal.”

As this matter is presently being resolved via the arbitration process, Ms. Lesage's appeal under Docket No. D1-19-074 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 June 20, 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)(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:

Kelly Lesage (Appellant)
Sean P. Sweeney, Esq. (for Respondent)