

CS

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

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

JOHN T. LYNFORD,  
Appellant

v.

PE-08-103

TOWN OF GREENFIELD,  
Respondent

Appellant's Attorney:

*Pro Se*  
John T. Lynford

[REDACTED]  
[REDACTED]

Respondent's Attorney:

Richard D. Hayes, Esq.  
Sullivan, Hayes & Quinn  
One Monarch Place Ste. 1200  
Springfield, MA 01144

Commissioner:

John E. Taylor

DECISION

Pursuant to the provisions of G.L. c. 31, § 6C, the Appellant, John T. Lynford (hereinafter "Appellant"), filed an appeal with the Civil Service Commission (hereinafter "Commission"), claiming that the personnel evaluations conducted by the Town of Greenfield (hereinafter "Appointing Authority" or "Greenfield") do not conform to the standards set in G.L. c. 31 § 6A. On or about February 9, 2008, Hereinafter William Schneider conducted an evaluation of the Appellant. On February 26, 2008, the Appellant appealed his evaluation to the Appointing Authority. On April 15, 2008, a three-member panel conducted a hearing and denied the appeal.

The Appellant filed a timely appeal with the Commission. A hearing was held on May 28, 2008 at the Springfield State Building, Room 305. One Tape was made of the hearing. As no notice was received from either party, the hearing was declared private.

**FINDINGS OF FACT:**

Based on the sixteen (16) exhibits entered into evidence and the testimony of Mark H. Cogswell, Fire Chief, Greenfield Fire Department (hereinafter "Chief Cogswell"), William Schneider, Hereinafter, Greenfield Fire Department (hereinafter "Captain Schneider"), and Firefighter John T. Lyford, Appellant (hereinafter "Appellant").

I make the following findings of fact:

1. The Appellant, John T. Lyford, is a tenured civil service employee in the position of firefighter in the Town of Greenfield Fire Department ("Department"). His date of hire with the Department was January 14, 1988 in the Call/House Force. The Appellant became permanent on October 17, 1993. (Testimony of Appellant)
2. Captain Schneider has held the position of Captain since November 2007 and at all times relevant to this case. He previously served as a firefighter and union president. He was hired by the Department in the Call/House Force on December 17, 1984. He became permanent on August 13, 1987. (Testimony of Schneider)
3. Captain Schneider is the Appellant's supervisor and was so at all times relevant to this case. (Testimony of Schneider, Testimony of Appellant)
4. The Appellant and the Appointing Authority are parties to a collective bargaining agreement, effective July 1, 2005 through June 30, 2008. (Exhibit 2)

5. Management has a collective bargained right to evaluate its employees. Since the implementation of the Employee Appraisal form, neither the Union or its members have ever contested it. Chief Cogswell testified that when the Employee Appraisal form was modified in 2005, the Union was provided with a copy of the new form and the process has been in practice since that time (Exhibit 2, Article 4 & testimony of Chief Cogswell)
6. On or about February 9, 2008, Captain Schneider conducted an Employee Appraisal of the Appellant. The Employee Appraisal consisted of ten (10) areas of review. (Exhibit 3)
7. While the Appointing Authority has no standard procedures for conducting employee evaluations, the forms are created internally by the Appointing Authority and are uniform in questions and rating scale. (Exhibit 13)
8. The Department's Employee Appraisal consists of ten (10) categories to which firefighters are rated as "*failed to meet expectations,*" "*met some expectations,*" "*met all expectations,*" "*exceeded expectations,*" and "*far exceeded expectations.*" Additionally, below each category rating is a space for individualized comments. There is an eleventh (11) category entitled "LEADERSHIP FOR SUPERVISORS;" however the Appellant was not rated under this category due to the fact that he is not a supervisor. (Exhibit 3)
9. The Department's Employee Appraisal consists of the following ten (10) categories and descriptions:
  - (a) "SAFETY: Degree to which the Employee understands and follows Department Rules and Regulations, Standard Operating Procedures, and Orders, as well as cares for the safety of self, others, and equipment."
  - (b) "PROFESSIONAL APPEARANCE: Degree to which the Employee is properly attired, according to Department Rules and Regulations."

- (c) KNOWLEDGE AND TECHNICAL SKILLS: Ability to demonstrate full understanding of required skills, to include operations, equipment, and methods.”
- (d) “DEPENDABILITY AND RELIABILITY: Consistently completes assignments with little direct supervision. When in doubt, checks with Supervisor on proper procedures. Responds to incidents, training sessions, Departmental meetings, etc., and demonstrates commitment to the Department.”
- (e) “RESPONSIVENESS AND ADAPTABILITY: Ability to handle changing assignments, situations, and conditions by adapting to and overcoming barriers.”
- (f) “INITIATIVE: Ability to take on additional responsibilities, identify problems, perform corrective measures, and suggest effective solutions within the chain of command.”
- (g) “HUMAN RELATIONS: Ability to work effectively without creating tension or conflict with coworkers, citizens, or visitors. Willingness to cooperate with coworkers. Shows courtesy and politeness to everyone. Effectively receives constructive feedback. Shows personal integrity.”
- (h) “TEAMWORK AND COOPERATION: Ability to work efficiently and effectively with others to achieve Department goals and objectives.”
- (i) “PERFORMANCE OF DUTIES: Ability to effectively and efficiently accept, understand, and respond to work assignments from Supervisor. Provides a high level of service towards everyone, including the public. Performs work in a professional manner. Fully understands and follows all Department Rules and Regulations and Standard Operating Procedures.”
- (j) “POTENTIAL FOR LEADERSHIP: Ability to handle pressure, make decisions, and show functional judgment, responsibility, and accountability for actions. Demonstrates

respect for others and shows personal integrity. Effectively resolves conflict between people. Recognizes and values contributions by people.”

10. Out of the ten (10) areas of review, the Appellant was rated “*met all expectations*” in eight (8) areas and “*met some expectations*” in two (2) areas. (Exhibit 3)
11. The Appellant sent a February 26, 2008 letter to Mayor Christine Forgey (hereinafter “Mayor Forgey”) appealing his employee evaluation. (Exhibit 4)
12. Lane Kelly, Director of Municipal Finance and Administration (hereinafter “Director Kelly”) sent the Appellant a March 20, 2008 letter denying the Appellant’s appeal due to insufficient evidence. (Exhibit 5)
13. On March 22, 2008, the Appellant sent an email message to Mayor Forgey requesting an appeal to a three (3) member panel, pursuant to Massachusetts General Law. (Exhibit 6)
14. On March 25, 2008, Mayor Forgey sent a letter to Kurt Seaman, Union President (hereinafter “Seaman”) informing him of the Appellant’s appeal. (Exhibit 7)
15. On March 25, 2008 Mayor Forgey sent the Appellant a letter informing him of the 10-day process appeal. (Exhibit 8)
16. On April 8, 2008, an appeal hearing was conducted before a three (3) member panel consisting of Mark J. Shea, Firefighter and Union Representative; David Guilbault, Greenfield Chief of Police; and Melissa Shea, Esq., a neutral third party. (Testimony of Schneider, Exhibit 9)
17. On April 15, 2008, Chief Guilbault sent a letter to Mayor Forgey denying the Appellant’s appeal. (Exhibit 10)
18. On April 17, 2008 Firefighter Shea sent a letter to Mayor Forgey upholding Firefighter Lyford’s appeal. (Exhibit 11)

19. On April 18, 2008 Attorney Shea sent a letter to Mayor Forgey denying Firefighter Lyford's appeal. (Exhibit 12)
20. The panel denied the Appellant's appeal on a majority vote.

#### **CONCLUSION:**

G.L. c. 31, §6C does not provide a standard for review by the Commission of the actions of an Appointing Authority in evaluating the performance of an employee. Based upon chapter 31 and relevant case law, however, the Commission typically is called upon to find on the basis of the evidence presented, whether there was a reasonable justification for the action taken by the Appointing Authority. Watertown v. Arria, 16 Mass App. Ct. 331, 451 N.E.2d 443 (1983); Cambridge v. Civ. Serv. Comm'n et al., 43 Mass App. Ct. 300 (1997).

In the instant matter, the Commission finds there was a reasonable justification for the performance evaluation of the Appellant as conducted by the Appointing Authority and as documented in the exhibits introduced into evidence. Captain Schneider conducted an objective evaluation of the Appellant consistent with the Appointing Authority's policies and procedures.. Of the ten (10) areas of review, the Appellant was rated "*met all expectations*" for eight (8) areas and "*met some expectations*" in two (2) areas. The Appellant was informed of the results of this evaluation and given the opportunity to improve his performance. The Appellant, while unhappy with the evaluation, has not presented any facts to dispute it. Furthermore, the Appellant offers no evidence to support his contention that the Appointing Authority's manner of conducting performance evaluations violates G.L. c. 31, § 6. Despite the Appellant's argument, G.L. c. 31, § 6 does not require "formal training" in order to conduct evaluations. The individual selected to

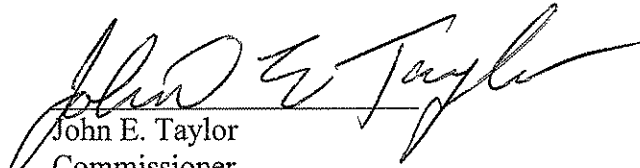
conduct evaluations is most often the employee's direct supervisor who has first-hand knowledge of the employee's skills, abilities and job performance. This relationship is an accurate and reliable manner in which Appointing Authorities conduct evaluations. Additionally, the Department's evaluation forms are identically written and administered to insure impartiality. The Appellant has undergone this same evaluation framework previously with no complaint.

The Appellant's argument that the Department's personnel evaluations are conducted in a discriminatory or otherwise disparate manner is not supported by the facts in evidence or testimony before the Commission. Captain Schneider posed the same questions to each firefighter. Captain Schneider evaluated each firefighter's performance on a standardized scale. Captain Schneider is well qualified to evaluate his subordinate firefighters' performances as a result of his decades of experience and knowledge of the firefighting service. As a past Firefighters Union President, he is well aware of the interpersonal issues between firefighters. It is clear to the Commission that Captain Schneider is well qualified to conduct firefighter evaluations and does so in a fair and objective manner.

The Appointing Authority has demonstrated by a preponderance of the evidence that there was reasonable justification for the Appellant's performance evaluation.

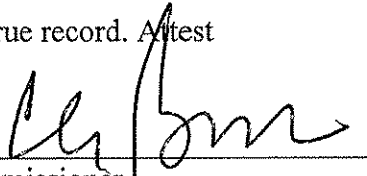
For all of the above reasons, the Appellant's appeal filed under Docket No. PE-08-103 is hereby *dismissed*.

Civil Service Commission

  
\_\_\_\_\_  
John E. Taylor  
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman, Henderson, Marquis, Stein and Taylor, Commissioners) on August 28, 2008.

A true record. Attest

  
\_\_\_\_\_  
Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a 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 the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

John T. Lynford (Appellant)

Richard D. Hayes, Esq. (for Appointing Authority)