

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108

JOHN MacDONALD,
Appellant

v.

B2-19-149

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
John MacDonald

Appearance for Respondent:

Melissa Thomson, Esq.
Human Resources Division
100 Cambridge Street: St #600
Boston, MA 02114

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On July 16, 2019, the Appellant, John MacDonald (Mr. MacDonald), a firefighter for the Town of Belmont (Town), filed an appeal with the Civil Service Commission (Commission), contesting a determination by the state's Human Resources Division (HRD) to not award him six (6) education and experience (E&E) credits for his bachelors degree on a promotional examination for Fire Lieutenant, administered by HRD on November 17, 2018.
2. On August 6, 2019, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. MacDonald and counsel for HRD.
3. G.L. c. 31, s. 22 states in relevant part that: "... review of the marking of the applicant's answers to essay questions, of the marking of the applicant's training and experience, or of a finding that the applicant did not meet the entrance requirements for appointment to the position shall be filed with the administrator no later than seventeen days after the date of mailing by the administrator of the notice to the

applicant of his mark on the examination or his failure to meet the entrance requirements for appointment to the position.” (emphasis added)

4. At the pre-hearing conference, HRD indicated that Mr. MacDonald did not file an appeal with HRD until June 3, 2019, six (6) days after the statutory filing deadline of May 28, 2019, which is the first business day occurring seventeen (17) days after Mr. MacDonald received his score, with appeal rights, on May 9, 2019.
5. Mr. MacDonald did not dispute that he failed to file a timely appeal with HRD, but attributed his inaction to his confusion regarding the score notice and a phone call with an HRD representative related to his transcript having been submitted regarding a prior examination cycle.
6. G.L c. 31, s. 24 states in relevant part: “ ... The commission shall refuse to accept any petition for appeal unless the request for appeal, which was the basis for such petition, was filed in the required time and form and unless a decision on such request for review has been rendered by the administrator.”

The deadline for filing an appeal with HRD is explicitly stated in the score notice, quoting directly from the above-referenced statute. The notice was also sufficiently clear for Mr. MacDonald to understand that HRD was not crediting him with six (6) points for his bachelor’s degree based on his failure to upload or send a transcript to HRD as part of the current examination cycle. He then failed to submit an appeal to HRD within the statutory timeframe.

For these reasons, the Appellant’s appeal under Docket No. B2-19-149 is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Stein and Tivnan, Commissioners [Camuso – Absent]) on August 15, 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:

John MacDonald (Appellant)

Melissa Thomson, Esq. (for Respondent)