

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

One Ashburton Place
Room 503
Boston, Massachusetts 02108

PHILIP A. MASLON,
Appellant

v.

C-19-14

UMASS AMHERST,
Respondent

Appearance for Appellant:

Pro Se
Philip A. Maslon

Appearance for Respondent:

Helen M. Bowler, Esq.
UMass Amherst
333 Whitmore Administration Building
181 Presidents Drive
Amherst, MA 01003-9313

Commissioner:

Christopher C. Bowman

DECISION ON RESPONDENT'S MOTION TO DISMISS

1. On January 6, 2019, the Appellant, Philip Maslon (Mr. Maslon), an employee at UMass Amherst, filed an appeal with the Civil Service Commission (Commission), contesting a decision by the state's Human Resources Division dated 10/29/18 regarding his request for reclassification.
2. The 10/29/18 letter from HRD stated in part: "You requested the reallocation of your position from the title of Utility Plant Operator to the title of Utilities Instrumentation and Controls Technician. After reviewing the appeal documentation, we find that the classification of High Voltage Electrician covers the duties being performed by you."
3. Mr. Maslon hand-wrote the following on the HRD letter which was attached to his appeal form to the Commission: "... I was not looking for the title of Utilities Instrumentation and controls but looking for the pay grade 24 or better ..."
4. On January 23, 2019, I held a pre-hearing conference at the Springfield State Building which was attended by Mr. Maslon, a union representative, counsel for UMass Amherst and a representative from UMass Amherst.

5. At the pre-hearing conference, it was agreed that: a) UMass appointed Mr. Maslon as an Electrician in 1987; b) Mr. Maslon became a Utility Plant Operator in 2004; and c) on 11/7/17 Mr. Maslon became a High Voltage Electrician I.
6. In regard to the designation of High Voltage Electrician I, the parties agreed that UMass, as a result of the increased complexity of the job duties (including the expansion of high voltage power plants), sought a title that more appropriately matched the job duties.
7. UMass identified the High Voltage Electrician series used by MassDOT and received permission from HRD to use that title at UMass.
8. Since this was a new title, UMass bargained with the local union regarding the appropriate pay grade.
9. UMass and the union reached an agreement that the title would be a “Grade 20”.
10. Mr. Maslon does not believe that Grade 20 is the appropriate compensation for this position given his job duties associated with the large, high voltage power plants. Thus, he filed an appeal with the Commission.
11. Rather than reach a conclusion regarding whether the Commission had jurisdiction to hear this appeal, UMass asked for additional time to see if a resolution could be reached regarding this matter.
12. For that reason, Mr. Maslon’s appeal was dismissed with a future effective date, to be reinstated only if there was no resolution and Mr. Maslon filed a request to re-open the appeal.
13. On May 31, 2019, Mr. Malson filed a timely request to re-open the appeal.
14. On June 26, 2019, I held a status conference at the Springfield State Building, attended by the same individuals who attended the January 23rd pre-hearing conference.
15. At the status conference, UMass indicated that it had surveyed other entities where the title of High Voltage Electrician is used, including UMass Medical, and concluded that the pay grade (20) was appropriate for UMass Amherst.
16. Mr. Maslon continued to disagree and argue that the position should be a Grade 24.
17. According to UMass, Mr. Maslon did indeed file a request for reclassification with UMass seeking to be reclassified from High Voltage Electrician to Utilities Instrumentation and Controls Technician. According to UMass, Mr. Maslon does not possess a certification required for that position. Mr. Maslon does not dispute this.
18. Since it is undisputed that Mr. Maslon does not currently meet the minimum entrance requirements of the higher position and because the Commission has no jurisdiction to hear appeals related to collectively-bargained pay grades, I ordered the following:
 - UMass Amherst had 30 days to file a motion to dismiss Mr. Maslon’s appeal;

- Mr. Maslon had 30 days thereafter to file a reply.

19. On July 25, 2019, UMass Amherst submitted Motion to Dismiss. Mr. Maslon submitted a reply one (1) day later.

Analysis / Conclusion

This is not a reclassification appeal under G.L. c. 30, s. 49. Rather, as stated by Mr. Maslon: ... “I was not looking for the title of Utilities Instrumentation and controls but looking for the pay grade 24 or better.” (emphasis added) Pay grades are a collective bargaining issue for which the Commission has no jurisdiction. In short, Mr. Maslon is not satisfied with the end result of negotiations between the local union and management at UMass Amherst regarding the pay grade for the title he currently occupies. The Commission is not the proper forum for that dispute.

Further, to the extent that this appeal can be construed as a classification appeal, it is undisputed that Mr. Maslon does not possess the minimum entrance requirements of the higher, Utilities Instrumentation and Controls Technician, position.

For these reasons, Mr. Maslon’s appeal under Docket No. C-19-14 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman,
Chairman

By 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)(1), 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 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. 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 to:
Philip Maslon (Appellant)
Helen Bowler, Esq. (for Respondent)