

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

MARK A. McLAUGHLIN,
Appellant

v.

D-17-103

BOSTON FIRE DEPARTMENT,
Respondent

Appearance for Appellant:

Douglas Louison, Esq.
Louison, Costello, Condon and Pfaff, LLP
101 Summer Street
Boston, MA 02110

Appearance for Respondent:

Connie S. Wong, Esq.¹
Deputy Commissioner
Boston Fire Department
115 Southamptton Street
Boston, MA 02118

Robert J. Boyle, Jr., Esq.
Boston City Hall
Boston, MA 02132

Commissioner:

Cynthia A. Ittleman, Esq.

DECISION

On May 22, 2017, Mark McLaughlin (Mr. McLaughlin or Appellant), pursuant to G.L. c. 31, s. 43, filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Boston Fire Department (Department or Respondent) to suspend him for one (1) tour/day. A pre-hearing conference was held on May 30, 2017 at the offices of the Civil Service Commission (Commission) in Boston. A hearing was held on July 19, 2017 at the Commission

¹ Previously Thomas Costello, Esq., also appeared, on behalf of the City of Boston Office of Labor Relations. However, Mr. Costello no longer works for the City of Boston.

offices in Boston as well.² The Respondent's witnesses were sequestered. The hearing was digitally recorded and both parties were provided with a CD of the hearing³. The Respondent filed a post-hearing brief but the Appellant declined to do so. For the reasons stated herein, the appeal is denied.

FINDINGS OF FACT:

Seventeen (17) exhibits were entered into evidence.⁴ Based on these exhibits, the testimony of the following witnesses:

Called by the Respondent:

- Scott Malone, Deputy Chief, Boston Fire Department
- Michael Celona, District Chief, Boston Fire Department

Called by the Appellant:

- Mark A. McLaughlin, Firefighter, Boston Fire Department, Appellant

and taking administrative notice of all matters filed in the case and pertinent statutes, case law, regulations, rules, policies, testimony that I find credible, and reasonable inferences from the evidence; a preponderance of evidence establishes the following facts:

1. The Appellant has been employed in the Department since approximately 1998 as a Firefighter. His father was a firefighter who is on disability retirement. The Appellant does not live with his father. (Testimony of Appellant)
2. The Department's attendance policy was established through collective bargaining with the Boston Firefighters' Association, IAFF Local 718. The collective bargaining

² The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

³ If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

⁴ The Respondent submitted Exhibits (Exs.) 1 and 1A through 14; the Appellant submitted Exs. 15 and 16.

agreement (CBA), effective 11/2/2001, Article XVII, section 3, did not contain a maximum number of tours that an employee could take as undocumented sick days within a twelve (12) –month period. (Testimony of Malone; Ex. 1A) Instead, employees were only required to produce a doctor’s note for sick leave when the employee was out sick for two (2) consecutive actual tours of duty. (Id.)

3. In 2010, the Respondent and Local 718 amended Article XVII, section 3, by deleting the prior section 3 and replacing it providing, in part, that the Fire Commission can require an employee to communicate with the Department Medical Examiner and/or obtain a medical letter from his/her medical provider if the employee has “accumulated ten (10) tours or more of undocumented absences within a rolling twelve (12) month period. ...” (Ex. 1) Deputy Chief John Walsh was the head of the Department’s Personnel Office at that time, which mailed medical documentation guidelines to all employees and posted the same information on bulletin boards in all units and fire stations. (Testimony of Malone) In addition, the Department had an online database that enabled employees to see how many undocumented absences that they had at any particular time. (Id.)

4. The Department’s 2012 medical documentation guidelines, effective 12/1/12, states,

“All medical documentation required to excuse the specific absence under this policy must be submitted to the Medical Officer within thirty (30) calendar days of returning to work.

The following information must be contained in medical documentation required under this policy:

1. The name of the employee, assignment, and employee i.d.
2. The name and contact information of the medical provider.
3. When the absence was for the employee’s own illness; injury; incapacity, the date(s) the medical provider examined the employee in connection with the employee’s absence(s).

4. The specific date(s) for which the medical provider believes that the employee needed to be absent from work.
5. When the absence was for the illness of the employee's immediate family member; the name of the ill family member, the relationship of such individual to the employee, and the date(s) the medical provider determined the employee was needed to care for such individual.
6. Faxes will not be accepted unless it is faxed from your Doctor's Office.
7. Appointment cards and reminder letters will not be accepted as valid sick leave documentation.
8. Treatment by telephone conversation / consultation will not be accepted.
9. A prescription printout form is not a valid sick leave documentation and will not be accepted.
10. All documentation will be reviewed on a case by case basis.

All original documentation and a copy shall be sent by mail in a sealed envelope (U.S. Mail and/or Department Mail). Hand delivered documentation shall be in a sealed envelope only to the Personnel Division. Unsealed documentation will not be accepted by the Personnel Division. A copy of the documentation will be returned to the member Approved or Disapproved by the Medical Office. Any questions please call the Personnel Division . . .

It is the employee's responsibility to obtain adequate medical documentation within the stated thirty (30) calendar day period."
(Ex. 2)(emphasis added)

5. The Department reissued the Guidelines on 11/3/14 with some changes, as noted below:

“ ... 3. The date(s) the medical provider examined the employee in connection with the employee's absence(s) when the absence was for the employee's own illness, injury or incapacity.

5. added:

- The Department will accept copies of documentation for family members.
- Doctor must be seen within 72 hrs of sick leave.” (Ex. 3)

The 2014 version of the Guidelines added that doctors' notes on prescription pads and prescription printouts from pharmacies or medical provider's offices would not be accepted as medical documentation. In addition, the 2014 version added:

- "all documentation will be reviewed on a case by case basis";
- all "ORIGINAL DOCUMENTATION and a COPY shall be sent by mail in a sealed envelope (U.S. mail, Department mail or hand delivered) to the Personnel Division. Unsealed documentation will not be accepted by the Personnel Division." (Ex. 3)(emphasis in original)
- 'a copy of documentation will be returned to the member either approved or disapproved by the Medical Office only if the member submits a copy. If no copy is received then nothing is sent back to the member.'
- [the federal Family Medical Leave Act (FMLA)] ... paperwork is handled by the Human Resources office."
(Ex. 3)

6. The Appellant was informed about the availability of FMLA in appropriate circumstances but he did not apply for it. (Testimony of Appellant and Malone) He did not want to disclose the names of the pertinent family member/s in connection with sick leave.

(Testimony of Appellant)

7. On 3/14/15, Fire Commissioner and Chief Finn issued General Order No. 11, regarding sick leave. This Order reiterates the 2014 guidelines but adds, in part,

"This is to remind all personnel that sick leave is to be used only 'where an employee is suffering from illness or injury (non-work related) to such an extent as to be unable to perform the duties of his/her position, or where members of the family within the household of the employee are ill and require the care of such employee.'

All hand delivered documentation shall be in a sealed envelope, with the original and a copy addressed to the attention of the Medical Office. ... Unsealed documentation will not be accepted by the Personnel Division. ...

Misuse and/or abuse of sick leave will not be tolerated. The department has been monitoring and shall continue to monitor the sick leave usage of all personnel. The department is currently investigating those members who have excessive and/or suspicious patterns of absenteeism. Any member found to have excessive undocumented sick leave shall be subject to progressive disciplinary action."
(Ex. 4)(**emphasis added**)(emphasis added)

8. Between 2015 and 2017, the Respondent disciplined approximately two hundred (200) employees for excessive undocumented sick leave. (Testimony of Malone) In that regard, the Respondent had held hearings for employees who were facing more than a four (4)-tour suspension for excessive undocumented sick leave absences. (Id.)
9. On or about October 31, 2013, the Appellant's division commander, Deputy Chief Michael Doherty, issued the Appellant an oral warning regarding his excessive undocumented sick leave usage (twelve (12) days/tours, two (2) more days than the ten (10)-day limit) between August 1, 2012 and August 1, 2013. (Ex. 5) Specifically, the Deputy Fire Chief's written warning indicated that the Appellant had not provided "any reasonable and/or credible documentation for the high rate of sick leave tours" and that "[a]ny future incidents of misuse and/or abuse of sick leave can result in disciplinary action up to and including discharge. ..." (Id.)
10. By notice dated January 15, 2015, Deputy Chief of Personnel Walsh notified Deputy Chief Doherty that the Appellant had taken eleven (11) undocumented sick tours between December 15, 2013 and December 15, 2014, that the Appellant had already been given a warning on December 21, 2013 about excessive undocumented sick leave for the prior twelve (12)-month period, and that, therefore, the Appellant should be issued a one (1)-day suspension. (Ex. 6)
11. The Appellant requested an appeal within the Department, seeking to reverse the one (1)-day suspension for undocumented sick tours between December 15, 2013 and December 15, 2014. A Department hearing was held and the Appellant presented documentation from a physician stating that the Appellant had "previous notes written for sick day excuses on two (2) of the eleven sick leave dates". (Ex. 8) This brought the Appellant's

undocumented sick leave days below ten (10) leave days for the cited twelve (12)-month period from 2013 to 2014. As a result, Deputy Chief Walsh, of the Personnel Division, asked Deputy Chief Doherty, Division 2, to rescind the one (1)-day tour suspension.

(Id.) However, Chief Walsh also admonished the Appellant that the Department was monitoring sick leave and that the Appellant could be disciplined for any future violations of the sick leave policy and guidelines. (Testimony of Malone and Appellant)

12. Between October 18, 2015 and October 18, 2016, the Appellant used sixteen (16) sick tours but only provided acceptable medical documentation for five (5) of the absences. (Testimony of Malone) By letter dated October 20, 2016, the Appellant was given written notice of the lack of documentation for absences. (Ex. 9) The Appellant requested and received a Department hearing for this suspension. (Ex. 11)
13. At this Department hearing, the Appellant offered four (4) documents in support of his sick absences. (Exs. 12A – 12D) Three (3) of the four (4) documents were handwritten notes on a physician's prescription pad in contravention of the Department policy and guidelines. (Id.) The Department had already accepted documentation from the Appellant for two (2) of the absences but rejected the notes the Appellant provided at the Department hearing regarding the Appellant's undocumented absence on March 8, 13 and 16, 2016. (Testimony of Malone and Appellant; Exs. 12C and 12D)
14. The document the Appellant offered at the Department hearing (and at the Commission hearing) regarding the Appellant's March 8, 2016 absence was submitted to the Department beyond the required thirty (30) day period and did not identify the family member whose illness led to the Appellant's absence in violation of the Department policy and guidelines. (Ex. 12C) Specifically, the note regarding the March 8, 2016

absence was date-stamped “received” at the Department on April 11, 2016 and said only “Family illness. Out of work 3/8/16”. (Id.)⁵

15. The medical notes that the Appellant offered for his absences on March 13 and 16, 2016 were also submitted beyond the required thirty (30)-day period in violation of the Department policy and guidelines. (Testimony of Malone; Ex. 12D) Specifically, the physician’s note for the March 13 and 16, 2016 absences is dated April 12, 2016 but the Department Medical Office received it on May 2, 2016. (Id.) When the Department receives an inadequate initial medical note from an employee and informs the employee that the initial note is inadequate, the employee must submit the correct medical note within the same thirty (30)-day period. (Testimony of Malone)
16. By memorandum dated April 25, 2017, Deputy Chief Doherty issued a one (1)-tour suspension to the Appellant for his undocumented sick absences between October 18, 2015 and October 18, 2016. (Ex. 10) By memo dated May 10, 2017, Deputy Chief Malone wrote to Fire Commissioner and Chief Finn that the Appellant failed to produce the required medical documentation for sick leave and that he recommended that “any further infractions of the Departments (sic) Sick Leave Policy may result in more severe progressive discipline being imposed. ...” (Ex. 13)(emphasis added)
17. As of the date of the Commission hearing, the Appellant’s union had not filed a grievance pertaining to the Appellant’s one (1)-tour suspension for failing to submit appropriate

⁵ At the Commission hearing, the Appellant asserted that his father’s physician told him that he (the physician) could not provide name of the Appellant’s father in the medical note because of the privacy provisions of the HIPAA (the federal Health Insurance Portability and Accountability Act of 1996). The Appellant further asserted that everyone at the Department knows who his father is. However, the Appellant also asserted that on a couple of occasions he took sick leave when he cared for one (1) or (2) other members of the family, with whom he may or may not have resided.

medical notes for the cited dates on which the Appellant had used sick leave time.

(Testimony of Appellant and Malone)

18. The Appellant's other discipline at the Department was a forty-five (45)-day suspension in 2011 when he acknowledged that he "misrepresented [his] EMT Certification status and received additional compensation from the Boston Fire Department under false pretences (sic)." (Ex. 14)⁶

Applicable Law

Pursuant to G.L. c. 31, § 43, a "person aggrieved by a decision of an appointing authority made pursuant to section forty-one shall, within ten days after receiving written notice of such decision, appeal in writing to the commission" The statute provides, in pertinent part:

If the commission by a preponderance of the evidence determines that there was just cause for an action taken against such person it shall affirm the action of the appointing authority, otherwise it shall reverse such action and the person concerned shall be returned to his position without loss of compensation or other rights; provided, however, if the employee, by a preponderance of the evidence, establishes that said action was based upon harmful error in the application of the appointing authority's procedure, an error of law, or upon any factor or conduct on the part of the employee not reasonably related to the fitness of the employee to perform his position, said action shall not be sustained and the person shall be returned to his position without loss of compensation or other rights. The commission may also modify any penalty imposed by the appointing authority.

G.L. c. 31, § 43.

An action is "justified" if it is "done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." Cambridge v. Civil Serv. Comm'n, 43 Mass.App.Ct. 300, 304 (1997); Comm'rs of Civil Serv. v. Mun. Ct. of Bos., 359 Mass. 211, 214 (1971); Selectmen of Wakefield v. Judge of First Dist. Ct., 262 Mass. 477, 482 (1928). The Commission determines justification

⁶ The Appellant was one (1) of a number of Firefighters state-wide who were found to have similarly misrepresented their EMT training. (Administrative Notice)

for discipline by inquiring “whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service.” School Comm. of Brockton v. Civil Serv. Comm’n, 43 Mass.App.Ct. 486, 488 (citing Murray v. Second Dist. Ct., 389 Mass. 508, 514 (1983)).

The Appointing Authority’s burden of proof by a preponderance of the evidence is satisfied “if it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there.” Tucker v. Pearlstein, 334 Mass. 33, 35-36 (1956).

While the Commission makes *de novo* findings of fact, “the Commission’s task, however, is not to be accomplished on a wholly blank slate.” Town of Falmouth v. Civil Serv. Comm’n, 447 Mass. 814, 823 (2006). “Here, the Commission does not act without regard to the previous decision of the [appointing authority], but rather decides whether ‘there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision.’” Id. at 823-24 (citing Watertown v. Arria, 16 Mass.App.Ct. 331, 334 (1983)).

Under certain circumstances, the Commission may modify the discipline issued to a tenured civil service employee. “The ... power accorded the commission to modify penalties must not be confused with the power to impose penalties ab initio, which is a power accorded the appointing authority.” Falmouth v. Civ. Serv. Comm’n, 61 Mass.App.Ct. 796, 800 (2004) quoting Police Comm’r v. Civ. Serv. Comm’n, 39 Mass.App.Ct. 594, 600 (1996). Unless the Commission’s findings of fact differ significantly from those reported by the appointing authority or interpret the relevant law in a substantially different way, the commission is not free to “substitute its judgment” for that of the appointing authority, and “cannot modify a penalty on

the basis of essentially similar fact finding without an adequate explanation.” Falmouth v. Civil Service Commn, 447 Mass. 814, 823 (2006). The Commission is also guided by “the principle of uniformity and the equitable treatment of similarly situated individuals” as well as the “underlying purpose of the civil service system ... to guard against political considerations, favoritism and bias in governmental employment decisions.” Id. (and cases cited).

Analysis

The Department has established by a preponderance of the evidence that it had just cause to discipline the Appellant for violating the Department’s sick leave policy and guidelines. Between 2001 and 2010, the Department’s sick leave policy only required employees to produce a doctor’s note when the employee was out sick for two (2) consecutive actual tours of duty. As of 2010, in an effort to address excessive sick leave absences, the Department and Local 718 amended the sick leave policy to require that employees who had used at least ten (10) sick leave days within a rolling twelve (12)-month period submit medical documentation to the Department. Notice of this sick leave policy change was mailed to employees and posted on bulletin boards throughout the Department. The Department also has a database that allows employees to check how much sick leave they had used. As of December 1, 2012, the sick leave policy and guidelines required that all medical documentation be submitted within thirty (30) days of returning to work, that medical notes identify the employee, provide the name and contact information of the medical provider, the date the medical provider examined the employee, and the dates the medical provider believes the employee needed to be out of work. Also, under the 2012 policy and guidelines, if the employee took sick leave to care for a family member, the employee was required to indicate it involved the employee’s “immediate family member”, the name of the family member, the relationship of the family member to the

employee, and the date the medical provider indicated that the employee was needed to care for the family member. Further, the 2012 policy and guidelines specified, in part, that all original documentation and a copy shall be mailed to the Department in a sealed envelope (U.S. mail or Department mail), delivered documents shall be in a sealed envelope, unsealed documents will not be accepted, and a copy of the documentation will be returned to the employee marked approved or disapproved.

In a continuing effort to address excessive sick leave, effective November 3, 2014 the Department added to its policy and guidelines, in part, that doctors' notes on prescription pads would not be accepted as medical documentation. On March 14, 2015, Fire Commissioner and Chief Finn issued General Order No. 11, reiterating the 2014 sick leave policy and guidelines but further reminded employees that sick leave is only when an employee is "unable to perform the duties of his/her position, or where members of the family within the household of the employee are ill and require the care of such employee". General Order No. 11 also states,

... [m]isuse and/or abuse of sick leave will not be tolerated. The department has been monitoring and shall continue to monitor the sick leave usage of all personnel. The department is currently investigating those members who have excessive and/or suspicious patterns of absenteeism. Any member found to have excessive undocumented sick leave shall be subject to progressive disciplinary action.
(Ex. 4)

In fact, between 2015 and 2017, the Department disciplined approximately two hundred (200) employees for excessive undocumented sick leave.

By letter dated October 20, 2016, the Department informed the Appellant that he had violated the Department sick leave policy and guidelines because he had used sixteen (16) sick tours/days but provided acceptable medical notes for only five (5) of the sixteen (16) absences during the period October 18, 2015 to October 18, 2016. The Appellant requested a Department hearing. The Department accepted two (2) medical notes that the Appellant offered. At the

Department hearing, the Appellant belatedly offered four (4) medical notes, three (3) of which were handwritten notes on a physician's prescription pad and beyond the thirty (30) day deadline, in violation of the Department's policy and guidelines. In addition, the Appellant did not identify the family member for whom the Appellant took a sick leave day/tour. By memorandum dated April 25, 2017, Deputy Chief Doherty issued the Appellant the one (1)-tour/day suspension at issue here. On May 10, 2017, Deputy Chief Malone wrote to Fire Commissioner and Chief Finn regarding the Appellant's failure to provide the required medical notes and recommended that any further violations "may result in more severe progressive discipline being imposed" Ex. 13 (emphasis added).

This is not the Appellant's first violation of the Department's sick leave policy and guidelines. The Appellant first violated the Department's sick leave policy and guidelines in 2013. Specifically, in October, 2013, Deputy Chief Doherty issued the Appellant a warning for using twelve (12) days/tours of undocumented sick leave, two (2) more days than the ten (10)-tour/day limit, between August 1, 2012 and August 1, 2013.

On January 15, 2015, Deputy Chief Walsh informed Deputy Chief Doherty that the Appellant again violated the Department's policy and guidelines by taking eleven (11) undocumented sick leave tours/days between December 15, 2013 and December 15, 2014, recommending that the Appellant be suspended for one (1) day/tour, since the Appellant had already been given a warning regarding a prior violation of the Department's sick leave policy and guidelines. The Appellant appealed the suspension internally and belatedly produced medical documentation pertaining to two (2) sick leave absences, reducing the total number of undocumented absences to less than ten (10). The Department rescinded the one (1)-day

suspension but Chief Walsh reminded the Appellant that he could be disciplined for any future undocumented absences.

The other discipline in the Appellant's record is a forty-five (45)-day suspension in or about 2011, involving his misrepresentation of his EMT Certification status, for which he received additional compensation from the Department under false pretenses. Although the EMT Certification matter did not involve excessive use of undocumented sick leave, it was recent enough to raise doubts about the Appellant's credibility.

In the firefighting profession, where sufficient staffing to respond to emergencies is essential, there can be little doubt that excessive sick leave can impair the ability of Fire Departments to timely respond. In response to excessive sick leave use in the Department and to ensure that there is adequate personnel available at all times, the Department established detailed and specific sick leave rules, providing notice to all employees and provided employees with the means to monitor their sick leave use. When, as here, the Fire Department has developed and implemented such a policy and guidelines in response to excessive sick leave use, the failure to adhere to such policy and guidelines constitutes substantial misconduct which adversely affects the public interest by impairing the efficiency of public service warranting discipline. The Appellant used sixteen (16) sick tours/days (six (6) days over the limit) during the period October 18, 2015 to October 18, 2016 but provided acceptable medical notes for only five (5) of the sixteen (16) absences in violation of the Department's well established policy and guidelines. The Department suspended the Appellant for one (1) tour/day as a result of his failure to adhere to the Department policy and guidelines.

When the Department issued the Appellant a one (1)-tour/day suspension for violating the Department sick leave policy and guidelines in the period between October 18, 2015 and

October 18, 2016, it followed the principles of progressive discipline since the Appellant's most recent discipline that was sustained following a Department hearing was a warning. There is no indication in the record that the Appellant was the subject of disparate treatment, nor is there any indication in the record that the disciplinary action taken against the Appellant was the result of bias or other improper motive. In addition, the findings here are substantially the same as those found by the Department. For these reasons, modification of the one (1)-tour/day suspension is not warranted. Further, I find that the Department was faced with excessive undocumented sick leave at the time, a crucial issue for a firefighting force, which it sought to address with a policy and detailed guidelines, it informed the employees were informed of the policy and guidelines, and the policy and guidelines were evenly applied to the Appellant. As a result, there is no reason to disturb the one (1)-day/tour suspension issued by the Department to the Appellant.

Conclusion

Accordingly, for the above stated reasons, the discipline appeal of Mr. McLaughlin, under Docket No. D-17-103, is hereby denied.

Civil Service Commission

/s/Cynthia A. Ittleman

Cynthia A. Ittleman, Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on October 10, 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:

Douglas Louison, Esq. (for Appellant)

Connie S. Wong, Esq. (for Respondent)

Robert J. Boyle, Jr., Esq. (for Respondent)