

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

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

**Case No:** I-09-423

**In the matter of:**

**City of Methuen's 2008 /  
2009 Review and Selection  
of Reserve Firefighter  
Candidates**

**INTERIM ORDER**

Pursuant to G.L. c. 31, § 2(b), Anthony Sheehan filed a “bypass appeal” with the Civil Service Commission (hereinafter “Commission”) contesting his “non-selection” as a reserve firefighter in the City of Methuen (hereinafter “City”). [There is a dispute among the parties as to whether Mr. Shaheen’s non-selection, even it were to occur, constitutes a bypass.]

A pre-hearing conference was conducted on September 15, 2009 and a Status Conference was held on November 9, 2009.

It is undisputed that the state’s Human Resources Division (HRD) issued Certification No. 280591 to the City on June 25, 2008 for the selection of seven (7) permanent reserve firefighters with the instructions stating that “selection must be of 7 of the first 15 highest who will accept appointment.”

According to HRD, seventeen (17) months after being issued the Certification, the City has yet to return the Certification to HRD seeking to appoint any candidates.

The City’s Personnel Director, who attended the status conference, said she had returned the Certification to HRD, but was not able to produce any reliable evidence that she had done so.

PAR.08 (2) requires that a Certification for public safety original appointments be returned to HRD by the Appointing Authority no later than 12 weeks after it was issued. PAR.08(2) requires that ... “any appointing authority requesting an extension must submit a written request setting forth sound and sufficient reasons as to why the appointment cannot be made within [this] time period...”. Unless an appointing authority shall, within [this] time period... make and notify the administrator of an appointment from the names certified, the certification shall become void.

As a result of the City's failure to return the Certification to HRD, candidates who otherwise would have been selected for appointment may be aggrieved. To further complicate matters, a new civil service examination has subsequently been administered by HRD for this position.

At the November 9, 2009 status conference, the parties agreed that all candidates who applied for the position of reserve firefighter, including those individuals designated for selection by the City are, at the very least, interested parties in regard to the final resolution of this matter.

Therefore, it was agreed that the City would forward a letter to all candidates who were considered for appointment from Certification No. 280591. In this correspondence, the City would: 1) acknowledge its mistakes in this process; and 2) inform all candidates that the Civil Service Commission, under G.L. c. 31, § 2(a), has opened an investigation and will be conducting a public hearing in the City of Methuen at which time all parties could be heard. The City shall facilitate a meeting date, time and meeting place acceptable to the Commission.

For all of the above reasons, the Commission hereby opens an investigation regarding the City of Methuen's 2008 / 2009 review and selection of reserve firefighter candidates pursuant to G.L. c. 31, § 2(a).

Within thirty (30) days, the City shall provide the Commission with proposed dates, times and meeting place for the hearing. The City shall send all candidates notification of this hearing along with a copy of this interim order.

Finally, this interim order is to be posted at the Office of the Clerk at Methuen City Hall and conspicuously at the Methuen Fire Department headquarters.

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Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Stein and Taylor, Commissioners) on December 10, 2009.

A True Copy. Attest:

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Commissioner

Notice to:

Peter J. McQuillan, Esq.  
City of Methuen Legal Department  
41 Pleasant Street  
Methuen, MA 01844

Tsuyoshi Fukuda, Esq. (HRD)  
Human Resources Division  
One Ashburton Place: Room 211  
Boston, MA 02108

Anthony Shaheen (Appellant in CSC Case No. G1-09-347)