

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

ARTHUR O'CONNELL,
Appellant

v.

HUMAN RESOURCE DIVISION,
Respondent

B2-15-101

Appearance for Appellant:

Joseph L. Sulman, Esq.
David I. Brody, Esq.
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Appearance for Respondent:

Patrick G. Butler, Esq., Labor Counsel
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One Ashburton Place
Boston, MA 02108

Commissioner:

Paul M. Stein

DECISION

The Appellant, Arthur O'Connell, appealed to the Civil Service Commission (Commission), pursuant to G.L.c.31, § 2(b) & §24, from a decision of the Massachusetts Human Resource Division (HRD) to reject his claim for Education & Experience (E&E) points on the March 2015 promotional examination for Environmental Police Officer (EPO) C&D. The Commission held a pre-hearing conference on June 23, 2015 and a full hearing on August 11, 2015.¹ The hearing was digitally recorded and the parties received a CD of the hearing². Witnesses were sequestered.

¹ 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.

² 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.

FINDINGS OF FACT:

Seventeen (17) exhibits were entered into evidence and one additional document was marked for identification (Exh. 14ID). Based on these exhibits the testimony of the witnesses:

*Called by the Appellant*³

- William Bilotta, Major, Massachusetts Environmental Police
- Rob Roy McGregor, Sergeant, Massachusetts Environmental Police
- Arthur O'Connell, Appellant
- Rebecca Szalicki,

Called by the Respondent

- Brianna Ward, Director of Test Development, HRD

and inferences reasonably drawn from the evidence I find credible, I make the findings of fact stated below.

1. The Appellant, Arthur O'Connell, is a tenured EPO employed with the Massachusetts Environmental Police (MEP) since August 30, 2010. He is a military veteran with active and reserve service in the United States Coast Guard. (*Exhs. 1 & 7; Testimony of Appellant*)

2. Officer O'Connell was one of ten candidates who took and passed the written component of the promotional examination for EPO C (Sergeant) administered by HRD on Saturday, March 21, 2015. The passing score on the written component was 70.00 and Officer O'Connell scored 72.50. (*Exhs. 1, 3 & 12; Administrative Notice [E-mail submitted to Commission from HRD dated 8/14/15]*)

3. The 2015 EPO C & D written examination was a "bubble-sheet" form of multiple choice examination, in which the candidates appeared in person at the examination site (One Ashburton Place, Boston) and hand-marked their answers to the examination questions on a "bubble sheet". This process differed from the "on-line" type of examination used in the prior EPO C & D

³ I allowed, in part, HRD's Motion in Limine to exclude certain testimony of Michael Cote, a witness to be called by the Appellant, and the testimony and hearsay evidence from other witnesses that would have related to alleged technical issues other than what the Appellant asserts he encountered that formed the basis for his appeal. (*See Exhs. 14ID, 17 & 18*)

examination administered in 2012 in which candidates accessed the examination questions and answered them on-line. (*Testimony of Appellant, Maj. Bilotta & Dir. Ward*)

4. HRD now employs a “paperless” on-line website provided through NEOGOV, a private vendor, to manage the civil service examination process. This process requires that candidate register on-line to take the examination, and requires a username (which may be the candidate’s e-mail or another name) and a password to access the secured parts of the website. The website is the primary tool for communication between HRD and the examination candidates. HRD chose this system in the belief that it was both more efficient and more helpful to candidates. (*Exhs. 3, 9, 10, 12, 13 & 15; Testimony of Ward*)

5. The written examination component was one of two components that comprised the 2015 EPO C examination, and the candidate’s score on the written component received 60% of the weight toward a candidate’s final score. The second component was the E&E component, which is given 40% of the weight in determining a candidate’s overall final score. A candidate must receive a passing score (of 70.00) on each component in order to receive a passing grade on the examination as a whole. (*Exh. 12; Testimony of Ward*)

6. E&E points are awarded based on education, training and work experience as determined by a candidate’s self-reporting of the information, including any required supporting documentation, to qualify him or her for points according to the provisions of the EPO C & D E&E Claim, which is an application form that a candidate is required to file on-line, separate from the application to take the written examination. (*Exhs 4 through 6, 15; Testimony of Ward*)

7. The E&E Claim form contained a series of ten (10) categories for claiming experience (and three (3) additional categories for claiming education points, which are not an issue in this appeal). (*Exh. 6*)

8. The categories on the EPO C&D E&E Claim form germane to Officer O'Connell are:

- Question 1, entitled "Eligibility" stated: "If you have been approved as eligible to take this exam and have received a Notice to Appear on the exam date, select YES. By answering "YES" to Question 1, a candidate received 70 E&E points, thus, earning a the minimum points required to attain a passing grade on this component. Question 1 on the form does not specifically state that a candidate need submit any additional documentation to earn this minimum passing grade.
- A candidate could claim additional E&E points by answering YES to Question 2, confirming that the candidate read and understood the instructions and checking the appropriate boxes in Questions 3 through 10 corresponding to the level and length of experience. In general, the more recent the experience and the more directly relevant the experience to the work of an EPO C (Sergeant) and/or EPO D (Lieutenant), the more points a candidate was entitled to claim. Question 2 states, in part:

"In this section you will rate your work experience as of the date of the examination . . . Do not rate any category in which you have less than one month of experience . . . Count 16 or more work days or 172 hours in a month as a full month. VERIFYING EMPLOYMENT/EXPERIENCE CLAIMS: Supporting documentation must be provided in the form of a dated letter, signed by the appointing authority or your employer (past or present) identifying the position title, type of job responsibilities, dates of experience, whether the experience was full or part-time If the experience was less than full-time, the verification must include the actual time worked, e.g., number of hours per week or the specific number of HOURS worked within a defined time period. All part-time experience . . . must be totaled by number of HOURS in each category, or it will not be credited. Totaling part-time experience in SHIFTS will not be credited. Letters must be on original, official letterhead or stationary, with an original signature. . . . CREDITING PART-TIME SERVICE: Prorate part time experience on the basis of a 40 hour work week. Example: 20 hours per week for 30 months is prorated as 20/40 times 30 = 15 months. Therefore, select the range for 12 to 23 months."

- In Officer O'Connell's case, his 55 months of experience as an EPO A/B with the MEP from August 2010 to March 21, 2015 (the date of the written examination),

would have allowed him to claim an additional 7.2 points under Question 5, for experience in the “specified department”, i.e. MEP.

- Officer O’Connell also worked as a part-time Oakham Police Officer, which would have been covered under Question 8, for work as a regular police officer in a department other than experience as an EPO. As discussed in more detail below, however, the documentation he submitted on his employment with the Oakham Police Department did not include any specifics, so the points, if any, he would have been able to claim for this part-time work are not ascertainable.

(Exhs. 1, 6 & 7(emphasis added); Testimony of Appellant)

9. Officer O’Connell, along with all other candidates, received extensive instructions about the E&E Claim process by e-mail before and after the written examination. HRD also provided all candidates with a hand-out at the written examination summarizing the essential requirements for submitting the E&E Claim, and the examination proctors read a specific instruction to the applicants that made clear that the E&E Claim itself (as opposed to the supporting documentation) must be submitted online. HRD also sent last-minute reminder e-mails on March 24, 2015. *(Exhs. 1, 3 through 6, 8, 15; Testimony of Appellant, Maj. Bilotta and Dir. Ward)*⁴

10. These instructions provided, among other things, the following information:

- “The Education and Experience clam is a separate application that the written exam application. In order to receive a final score for the 2015 Environmental Police Officer C&D Promotional Exam and to be placed on the eligible list, you must complete the Education and Experience (E&E) claim.”

“As stated in your examination poster, all Education & Experience (E&E) claims must be submitted ONLINE.”

⁴ There were some technical problems associated with the E&E notices leading up to the written examination. The notices were sent later than originally promised and the initial notice contained a link to the wrong E&E questionnaire (a firefighter’s E&E form). These problems were quickly corrected. It appears that access to the EPO E&E Claim was working correctly by the date of the EPO C & D examination. *(Exhs. 1, 2, 3, 14ID & 18; Testimony of Appellant, Maj. Bilotta, & Dir. Ward)*

“If you have successfully completed and submitted the E&E claim application you will receive a confirmation e-mail. (AN APPLICATION IS NOT COMPLETE UNTIL YOU RECEIVE THIS CONFIRMATION EMAIL)”

“The claim application must be submitted online and no later than 11:59pm on March 28, 2015.⁵ . . . We will not accept any additional supporting documentation after this time period. . . . If you do not receive an individual automated confirmation email after you submit your claim, your E&E claim application is considered incomplete.”

“Supporting documentation must be scanned and attached to your application or sent to civilservice@state.ma.us no later than March 28, 2015.”

“Please note that E&E is an examination component and, therefore, you must complete the Online E&E claim yourself. Emails and telephone calls regarding completion of the claim will not be accepted or responded to. Please read the instructions carefully.”

(Exh. 5) (EMPHASIS IN ORIGINAL) (*emphasis added*)

- “DO NOT ATTEMPT TO COMPLETE THE ONLINE E&E CLAIM WITHOUT READING ALL OF THESE INSTRUCTIONS YOU MAY SAVE AND EXIT THE ONLINE E&E CLAIM AS MANY TIMES AS YOU WISH UP UNTIL THE STATUTORY DEADLINE. ALL CLAIMS MUST BE SUBMITTED BEFORE MIDNIGHT ON THE DEADLINE DATE. YOU MAY PRINT YOUR COMPLETED CLAIM FOR FUTURE REFERENCE.”

“THIS IS AN EXAMINATION COMPONENT. Complete your Online E&E Claim on your own and to the best of your ability. Accurate completion of the education and experience claim is a scored weighted examination component. In order to ensure that no one receives any type of unfair advantage in the claim process, be advised that we are unable to provide individualized assistance to any applicant. Positions in the Environmental Police Officer c & D classification require the ability to read and understand instructions and take necessary steps to remember and implement them. Failure to follow any instructions in regard to this examination component is cause for disqualification”.

“PLEASE, NO PHONE CALLS and NO EMAIL INQUIRES. YOU WILL NOT RECEIVE A RESPONSE.”

“PREPARING AND SAVING YOUR CLAIM. HRD recommends that applicants download and print a copy of the Online E&E Claim to work with offline before attempting to complete the online form. As mentioned above, the Online E&E Claim provides you with the ability to save your work at any point and exit the claim. Up to the statutory deadline . . . you will be able to sign-in, complete and submit your Online E&E Claim. After submission, your Online E&E Claim will be saved in your online user account and you will have access to download or print a copy. Written requests for modification of a submitted claim, postmarked on or before the deadline date, will be added to your record for this exam.”

⁵ The time for submitting an E&E claim to HRD is prescribed by G.L.c.31, §22,¶1.

SUPPORTING DOCUMENTATION. The Human Resources Division (HRD) requires the submission of supporting documentation for all claims submitted in your Online E&E Claim. Please attach electronic copies . . . to the Online E&E Claim. Applicants may also bring copies to the examination site, or mail the copies to HRD All supporting documentation must be postmarked on or before the deadline date.

EXPERIENCE CLAIM SUPPORTING DOCUMENTATION. Work experience claims must be supported by a letter with original signature of the appointing authority or his/her designee. The appointing authority must provide starting and ending dates at each grade level and indicate whether this was full-time or part-time employment (including any “provisional” or “acting” time), dates and reasons for any breaks in service. . . . All experience applying to each category on the letter from the appointing authority must be totaled by number of hours in each category or it will not be credited. . . .

ATTACH DOCUMENTS TO THIS ONLINE E&E CLAIM. HRD asks that whenever possible applicants submit all supporting documents as electronic copies attached to the Online E&E Claim. . . . This office will also accept electronic documents via email to civilservice@state.ma.us.

(Exh. 6) (emphasis added)

(Exhs. 15 & 16; Testimony of Appellant and Dir. Ward)

11. On March 21, 2015, as the E&E instructions had provided, Officer O’Connell hand-delivered a letter to the HRD examination proctor from MEP Col. McGinn (his appointing authority) dated March 20, 2015, attesting to his full-time employment as an MEP EPO from August 30, 2010 to the date of the letter. I do not credit the Appellant’s testimony that the proctors told him he could “mail in my e&e” to mean that he did not need to submit the E& E Claim (as opposed to the supporting documentation) online, as the evidence established that the written and oral instructions clearly provided otherwise. *(Exhs. 4 through 7, 15, 16 & 18; Testimony of Appellant, Maj. Bilotta and Dir. Ward)*

12. After returning from taking the written examination component, Officer O’Connell logged on to the NEOGOV website and started to complete his E&E Claim. He was unable to recall how far he got in filling out the Claim or why he did not complete and submit it at that time. *(Testimony of Appellant)*

13. On March 24, 2015 HRD emailed a last-minute reminder to Officer O’Connell that he had not yet completed his E&E portion of the exam. This email informed him once more that the claim must be submitted online by midnight March 28, 2015. (*Exhs. 8 & 15*)

14. On March 26, 2015, Officer O’Connell received an email with an (unsigned) letter he had requested from the Chief of Police in Rutland MA, who stated that he had previously held the position of Police Chief in the Town of Oakham MA and that “Mr. Arthur O’Connell was employed by the Oakham Police Department from April 1999 to June 2004 and from May 2008 thru June 2010.” (*Exh. 7; Claim of Appeal*)

15. Mr. O’Connell next attempted to log-on to the NEOGOV website on March 28, 2015 to complete his E&E portion of the examination. He said he “tried several times” to log on, “tried to change my password” and “got locked out”. Neither Officer O’Connell, who is not highly proficient in computer science, nor Ms. Szalicki, who saw him working on his E&E claim that day, were able to document or testify as to what actually caused Officer O’Connell to be locked out or why his efforts to log on or change his password were unsuccessful. (*Testimony of O’Connell & Szalicki*)

16. As of March 28, 2015, and presently, the NEOGOV website allowed a user to enter the incorrect user name or password four times before an error message appears. The user is locked out of the system for thirty minutes after which the user can make another effort to log on using the correct user name and password. Alternatively, the user may request to reset the password. I observed Director Ward demonstrate this process at the hearing. (*Testimony of Dir. Ward*)

17. After spending some period of time trying to access the E&E Claim form online, possibly an hour, Officer O’Connell took his E&E supporting documents (the letter from the Rutland Police Chief and another copy of his letter from MEP, along with a copy of his DD214) to the

Post Office and mailed them to HRD certified mail. HRD received these documents on March 31, 2015. (*Exhs. 1, 7 & 8; Testimony of Appellant*)

18. When he returned home, at 1:13 pm, Officer O’Connell then sent an email to HRD stating that he got locked out trying to file his E&E claim online, and stating that “I have mailed two documents for my e&e and handed one in at the test site.” (*Exh. 8; Testimony of Appellant*)

19. HRD did not respond to Mr. O’Connell’s March 28th email. (*Exh. 1; Testimony of Appellant*)

20. On April 7, 2015, Dani Murname, an Information Officer in HRD’s Civil Service Unit, sent Officer O’Connell an email requesting a more complete version of his DD214 to confirm his veteran’s status. On April 10, 2015, Officer O’Connell replied by email and enclosed the required document. Ms. Murname confirmed that his “Vet status is now updated in your account and will be reflected on any passing scores which you may receive in the future.” Officer O’Connell never mentioned his E&E claim during this exchange. (*Exhs. 1, 9 through 11*)

21. On May 19, 2015, HRD sent an email informing Officer O’Connell that he had passed the Written Examination with a score of 72.50, he had failed the examination because of his “failure to complete Education and Experience Claim”. This letter was the first communication from HRD to Officer O’Connell since the April 2015 email exchange with Ms. Murname (*Exhs. 1 & 12; Testimony of Appellant*)

22. Officer O’Connell was one of the two (2) applicants out of the ten (10) who had passed the written component of the EPO C& D examination who did not pass the examination due to failure to comply with the E&E claim instructions. The other applicants properly completed their E&E claims online. (*Exhs. 17 & 18; Testimony of Dir Ward & Maj. Bilotta*)

23. After receiving the May 19, 2015 notice that he had failed the examination, Mr. O’Connell contacted HRD, spoke with an HRD employee and, then, emailed a message which stated, in part:

“I just received my scores and I passed the written but failed the e&e portion because I did not send in info. . . . I was locked out of my account and could not log back in until today. The proctor at the test said I could mail in my e&E so we could get credit so that is what I did.”

(Exh 13)

24. On May 26, 2015, Mr. O’Connell filed this appeal with the Commission. (*Exh.1; Claim of Appeal*)

Applicable Civil Service Law

The process for HRD review and appeal to the Commission to challenge the results of a civil service examination are currently contained in G.L.c.31, Sections 22 through 24 and follow a distinctly different statutory path from other forms of civil service appeals from HRD actions (or inactions). See, e.g., G.L.c.31, §2(b) (Commission is granted power and duty “[t]o hear and decide appeals by a person aggrieved by any decision, action, or failure to act by the administrator, *except as limited by the provisions of section twenty-four relating to the grading of examinations*”) (*emphasis added*) These statutes provide, in relevant part:

§22. Passing requirements of examinations; credits; requests for review. The administrator shall determine the passing requirements of examinations. *In any examination, the applicant shall be allowed seven days after the date of such examination to file with the administrator a training and experience sheet and to receive credit for such training and experience as of the time designated by the administrator.*

. . . [A]n applicant may request the administrator to conduct one of more of the following reviews relating to an examination: . . . (2) a review of the marking of the applicant’s training and experience; . . .

Such request for review. . . 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 in the examination . . .

. . .

§23. Review of examination papers; errors. Within six weeks after receipt of a request pursuant to section twenty-two, the administrator shall, subject to the provisions of this section, conduct such review, render a decision, and send a copy of such decision to the applicant. If the administrator finds an error was made . . . in the marking of the applicant's training and experience or in the finding that the applicant did not meet the entrance requirements. . . . the administrator shall make any necessary adjustment to correct such error.

The administrator may refuse to conduct a review pursuant to this section where . . . the applicant has failed to file the request for review within the required time or in the required form.

§24. Appeals; petitions. An applicant may appeal to the commission from a decision of the administrator made pursuant to section twenty-three Such appeal shall be filed no later than seventeen days after the date of mailing of the decision of the administrator. The commission shall determine the form of the petition for appeal, provided that the petition shall include a brief statement of the allegations presented to the administrator for review. . . . [T]he commission shall conduct a hearing and . . . render a decision, and send a copy of such decision to the applicant and the administrator.

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. In deciding an appeal pursuant to this section, the commission shall not allow credit for training or experience unless such training and experience was fully stated in the training and experience sheet filed by the applicant at the time designated by the administrator.

(emphasis added)

G.L.c.31,§3 directs that HRD shall make rules which include provisions for “open competitive and other examinations to test the practical fitness of applicants.” According to the Personnel Administration Rules (PAR) promulgated by HRD, “[t]he grading of the subject of training and experience as a part of a promotional examination shall be based on a schedule approved by the administrator [HRD] which shall include credits for elements of training and experience related to the position for which the examination is held.” PAR.6(1)(b) *(emphasis added)*

Analysis

The Commission has consistently deferred to HRD's discretion in designing and administering competitive civil service examinations. As stated in Carroll v. Human Resources Division, 27 MCSR 157 (2014):

There can be little doubt that the cited [civil service] statutes reflect a Legislative intent to endow HRD with considerable discretion in crafting, administering and scoring examinations, as well as crediting education as part thereof.

Id., 27 MCSR at 161-62 and cases cited. See also Merced v. Human Resources Division, 28 MCSR 396 (2015) (affirming HRD's requirement that university teaching credit required faculty status of adjunct professor or higher); Cataldo v. Human Resources Division, 23 MCSR 617 (2010) (noting HRD's broad authority to determine the "type and weight" given to training and experience) While HRD's discretion is not unfettered, so long as the rule has been clearly established, it is reasonable and firmly grounded in common sense", and HRD has uniformly applied it, the Commission will not disturb HRD's rational judgment in matters that directly involve its technical expertise in the administration of examinations. E.g., Clarke v. Boston Police Dep't, CSC No. B2-15-58, 29 MCSR --- (2016); Merced v. Human Resources Division, 28 MCSR 396 (2015)

Civil service law makes submission of a "training and experience sheet" an explicit statutory requirement to both HRD's allowance of E & E credit as well as a condition upon which the Commission may review HRD's failure to grant such E & E credits. See G.L.c.31, §22,¶2 & §24,¶2. Officer O'Connell never submitted any E & E examination sheet (as opposed to his supporting documentation) in any form. This, alone, precludes him from relief before the Commission.⁶ To be sure, there is some force to the argument that the sanction of examination

⁶ Officer O'Connell brought this appeal directly to the Commission without have sought a prior Section 22 review by HRD. HRD has not questioned the Commission's jurisdiction but has sought dismissal on the merits.

failure is unduly harsh for a candidate who, by virtue of being pre-qualified to sit for the EPO C & D examination was clearly known by HRD to have, at least, a minimum of experience to answer “YES” to the first question on the E&E Claim form, which automatically gave the candidate a passing grade of 70.00. HRD might well consider alleviating the harsh result that has occurred here in the future by simply starting anyone who has been pre-qualified to take a promotional examination, with 70.00 points and require the E&E sheet and further supporting documentation only in order to allow additional credits beyond the minimum passing E & E grade that every candidate who was qualified to take the examination must have attained. The Commission, however, is not warranted to overrule HRD’s interpretation of the implementation of this statutorily mandated requirement.

Clearly, there are no such extenuating circumstances here. Officer O’Connell’s conduct in this case falls short of showing the judgment that he reasonably could have applied to assure that he passed the E & E component and complied with the substance, if not the letter, of HRD’s online filing requirement. It is ironic that what probably caused him to wait until the last minute to complete his claim was his uncertainty about how much credit he could claim for his prior work as an Oakham Police Officer. The letter he ultimately procured was woefully deficient. It was unsigned, did not come from the appropriate appointing authority, and failed to disclose the actual hours worked as required. At most, even if he had received a complying letter, he would have a claim to only an additional point or two (which weighed 40% would have had a very small effect on his final grade). Had Officer O’Connell followed the instructions carefully, he would have realized that he could have secured a passing grade had he submitted the E&E Claim when he first went online on March 21, 2015, by answering Question 1 (automatic 70 points) and claiming the MEP time for which he had already delivered a letter (55 months = 7.2 points). He

should have known that a letter from the former Oakham Police Chief would not have been sufficient to grant him further credit and, even if it later could have been made, HRD allowed for written submissions to modify a previously duly submitted claim. Other steps that Officer O'Connell might have taken, but did not, include downloading the claim form as HRD recommended, so that he could have included the form either with his March 28, 2015 letter to HRD or attached it to his March 28, 2015 email. It is also noteworthy that Officer O'Connell made no attempt to log on to NEOGOV and nothing to follow-up his letter and email to HRD from March 28, 2015 until May 19, 2015, and even made no mention of the subject when he was contacted by an HRD employee about his veteran's status.

Finally, HRD's choice to rely on the NEOGOV "paperless" system for managing examinations, and declining to respond to applicant's questions, clearly falls within the purview of the sound discretion vested in HRD to design and administer civil service examinations. Officer O'Connell's alleged difficulties in navigating the system have not been shown to be attributable to a deficiency in the NEOGOV website and are just as likely the result of human error on Officer O'Connell's part. Moreover, whatever may have caused those difficulties, as HRD's E&E instructions reasonably provided, the completion of the online E&E examination component is an integral part of the examination process. An aspiring applicant for promotion to a position of MEP Sergeant or Lieutenant can reasonably be expected to take appropriate steps to overcome those obstacles, knowing that HRD was not able to assist, so as to ensure, at a minimum, "substantial compliance" with all requirements. As noted above, this is not such a case.

CONCLUSION

Accordingly, for the reasons stated above, the appeal of the Appellant, Arthur O'Connell, under Docket No. B2-15-101 is hereby *denied*.

Civil Service Commission

/s/ Paul M. Stein

Paul M. Stein
Commissioner

By a vote of the Civil Service Commission (Bowman, Chairman, Camuso, Ittleman, Stein and Tivnan, Commissioners) on February 4, 2016.

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:

Joseph Sulman, Esq. (Appellant)
Patrick G. Butler, Esq. (for Respondent)
Michelle Heffernan, Esq. (for HRD)