

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**

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

MARILYN QUINONES-PRENDERGAST,  
Appellant

v.

E-10-306

HUMAN RESOURCES  
DIVISION,  
Respondent

Appellant's Attorney:

*Pro Se*  
Marilyn Quinones-Prendergast

Respondent's Attorney:

Lindsey Boyle, Esq.  
Human Resources Division  
One Ashburton Place: Room 207  
Boston, MA 02108

Commissioner:

Christopher C. Bowman

**DECISION ON HRD'S MOTION TO DISMISS**

The Appellant, Marilyn Quinones-Prendergast (hereinafter "Prendergast" or "Appellant"), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (hereinafter "Commission"), claiming that she was aggrieved when the state's Human Resources Division (hereinafter "HRD") failed to notify her to appear at the Springfield Police Department (hereinafter "SPD") by sending her notification card to the incorrect mailing address. As a result, the Appellant failed to sign Certification No. 209006 indicating her willingness to accept a position as a Police Officer. She was not considered for the position of Police Officer.

The Appellant filed her appeal on November 15, 2010. A pre-hearing conference was held via teleconference on December 22, 2010 and I heard oral argument from both parties. HRD subsequently filed a Motion to Dismiss. The Appellant did not file a reply.

The following facts appear not to be in dispute:

1. On June 8, 2008, the Appellant filed an online application for the 2008 Police Officer examination through the HRD website.
2. The Appellant entered her current mailing address as: 663 Berkshire Avenue, Springfield, MA 01109.
3. On June 28, 2008, HRD held the open competitive examination for Police Officer, Announcement number 8027.
4. The Appellant took and passed the civil service examination for Police Officer, Announcement 8027.
5. On the date of the examination, the Appellant filled out a Residency Preference Claim Form. On this form, the Appellant listed her current mailing address as: 663 Berkshire Ave. The Residency Preference Claim Form is not used for mailing purposes by the Civil Service Unit.
6. On September 26, 2008, HRD mailed applicants their scores from the 2008 Police Officer examination to their last known address.
7. On November 1, 2008, HRD established an eligibility list from this examination.
8. G.L. c. 31 § 25 states that applicants whose name appear on an eligible list shall only be eligible for certification from said list for a period not to exceed two years, subject to three exceptions which do not apply here.

9. On June 25, 2010, the City of Springfield (hereinafter, “Springfield” or “Appointing Authority”), sent a Civil Service Requisition (Form 13) to HRD’s Civil Service Unit, requesting the certification to appoint twenty-five permanent full-time Police Officers.
10. On June 29, 2010, HRD’s Civil Service Unit received the Requisition.
11. On July 6, 2010, HRD issued Certification number 209006. The Appellant’s name appeared on this Certification.
12. According to the Personnel Administrator Rules (hereinafter, “PAR”), Springfield must adhere to the  $2n+1$  formula for selecting candidates. This formula requires Springfield to choose from two times the number of requested police officer appointments plus one.
13. The Appellant, number fifty-four on the certification list, was included within this  $2n+1$  formula
14. On or around July 6, 2010, HRD sent notification to the candidates of Certification 209006. HRD used the address provided by the candidates.
15. The Notification Card informed candidates that they needed to inform the Appointing Authority whether or not they would be willing to accept the appointment by or before July 16, 2010.
16. HRD did not keep copies of the Notification Cards.
17. HRD does not have any record that the Appellant’s Notification Card was returned as undeliverable.
18. The Appellant did not receive the Notification Card because she was living at 34 Gralia Drive, Springfield, MA 01128 at the time the cards were sent out.

19. The HRD website provides information regarding the two methods of change of address request: (1) Candidates may log into their account on the HRD Standings and Online Applicant Records Information System (SOARIS) and change her address, or (2) The candidate may send a written request via letter or electronically to HRD notifying the Civil Service Unit of any address change.
20. The Civil Service Unit does not accept address changes from civil service candidates through any other means.
21. The link “Address Change Request” is located on the Civil Service page of HRD’s website. It states:
- “You can now change your address and personal information on-line using the Standings and Online Applicant Record Information System, menu option 4. [SOARIS] *It is the responsibility of an applicant to ensure that his/her contact information is current and accurate.* This information is used to notify candidates about civil service activities, including potential appointment opportunities.” (*emphasis added*) (Exhibit 11)
22. The Appellant did not change or update her address via SORIS. As a matter of fact, she never created an online account through SOARIS. She did not send a written change of address.
23. Because she did not receive the Notification Card from HRD, the Appellant did not sign Certification No. 209006 indicating her willingness to accept employment as a Springfield police officer if selected.
24. The Appellant’s status on the certification list is listed as, “Failed to Respond.” She was not considered for employment.
25. On November 1, 2010, the Appellant’s eligibility from the 2008 examination expired. She has not taken the most recent Police Officer examination.

26. On November 15, 2010, the Appellant filed an appeal with the Commission, contesting that through no fault of her own, HRD sent Notification Card to the incorrect address.

27. The Appellant wrote a separate letter to the Commission, stating that:

“My original application for the Police officer exam given on June 28, 2008, listed both my mailing address, PO Box 80661, Springfield, MA 01138, and my home address at that time, 1383 Berkshire Avenue, Springfield, MA 01109. I have not resided at 63 Berkshire Ave. since on or around June 2009, have used PO Box 80661 as my mailing address since 2003 and on two previous civil service examinations, for both police officer and firefighter, used a PO Box as mailing address.” (Exhibit 9)

28. However, the Appellant listed her address as 663 Berkshire Ave. in the online examination application, she filled out on June 8, 2008.

## CONCLUSION

Under G.L. c. 31, § 2(b), the Commission has the power and duty to:

“[H]ear and decide appeals by a person aggrieved by any decision, action, or failure to act by [HRD], except as limited by the provisions of section twenty-four relating to the grading of examinations; provided that no decision or action of the administrator shall be reversed or modified nor shall any action be ordered in the case of a failure of the administrator to act, except by an affirmative vote of at least three members of the commission, and in each such case the commission shall state in the minutes of its proceedings the specific reasons for its decision.

No person shall be deemed to be aggrieved under the provisions of this section unless such person has made specific allegations in writing that a decision, action, or failure to act on the part of the administrator *was in violation of this chapter, the rules or basic merit principles promulgated thereunder* and said allegations shall show that such person’s rights were abridged, denied, or prejudiced in such a manner as to cause actual harm to the person’s employment status.” (*emphasis added*)

St. 1993, c. 310 provides:

“If the rights of any person acquired under the provision of chapter thirty-one of the General Laws or under any rule made thereunder have been prejudiced *through no fault of their own*, the civil service commission may take such action as will restore or protect such rights, notwithstanding the failure of any person to comply with any

requirement of said chapter thirty-one or any such rule as a condition precedent to the restoration of such rights.” (*emphasis added*)

801 CMR 1.01 (7) (g) (3) states:

“The Presiding Officer may at any time, on his own motion or that of a Party, dismiss a case for lack of jurisdiction to decide the matter, for failure of the Petitioner to state a claim upon which relief can be granted or because of the pendency of a prior, related action in any tribunal that should first be decided.”

On June 8, 2008, the Appellant entered her current mailing address as 663 Berkshire Avenue in her online examination application for the 2008 Police Officer examination via the HRD website, contrary to what she remembers. The Appellant also listed 663 Berkshire Avenue as her current mailing address on the Residency Preference Claim Form on June 28, 2008. Since June 8, 2008, the Appellant has not provided HRD with an updated address. 663 Berkshire Avenue was the only address the Appellant provided to HRD. With that information, HRD mailed the Appellant’s Notification Card for Certification 209006 to 663 Berkshire Avenue.

At this time, the Appellant was living at 34 Gralia Drive, Springfield. Thus, she did not receive the Notification Card. As a result, she did not sign the Certification and was not considered for appointment. The eligible list upon which the Appellant’s name appeared has now expired.

The Appellant has no reasonable expectation of prevailing on any element of this case. HRD did not violate the civil service law or rules or basic merit principles. Further, it was by her own fault that the Appellant did not receive Notification Card from HRD. It is the responsibility of the applicant, not HRD, to ensure that contact information is current and accurate. The Appellant failed in this regard.

For all of the above reasons, the Appellant's appeal under Docket No. E-10-306 is hereby *dismissed*.

Civil Service Commission

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Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, McDowell and Stein, Commissioners) on July 14, 2011.

A true record. Attest:

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Commissioner

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.

Notice:  
Marilyn Quinones-Prendergast (Appellant)  
Lindsey Boyle, Esq. (for HRD)