

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK

CIVIL ACTION NO. 08-5439H

MICHAEL RIZZO,

Plaintiff

v.

MASSACHUSETTS CIVIL SERVICE
COMMISSION and
TOWN OF LEXINGTON,
Defendants

NOTED \$50
12-21-09
MC & ASSOC.
J.F.L.

MASS. REG.
FILED
C.L. & P.
P.C.

PLAINTIFF'S RULE 12 (c) MOTION FOR
JUDGMENT ON THE PLEADINGS

I. MOTION

Pursuant to MGL c. 31, §441, MRCP 12(c) and Superior Court Standing Order 1-96, the plaintiff Michael Rizzo moves for judgment on the pleadings in this action for judicial review of a decision of the Massachusetts Civil Service Commission. For the reasons set forth below, he asks that the Court vacate that decision and that it order, pursuant to c. 30A, §14, that that the Town of Lexington reinstate Mr. Rizzo in his position without loss of compensation and assess reasonable costs against the Town.

II. STATEMENT OF REASONS WHY MOTION
SHOULD BE ALLOWED

A. Introduction

This is an action for judicial review of a final decision of the

Massachusetts Civil Service Commission ("Commission") in which that agency C. 31, 44 states in relevant part that "[a]ny party aggrieved by a final order or decision of the commission following a hearing pursuant to any section of this chapter . . . may institute proceedings for judicial review in the superior court within thirty days after receipt of such order or decision. Any proceedings in the superior court shall, insofar as applicable, be governed by the provisions of section fifteen of chapter thirty A . . ."

12/17/09. After hearing and upon review of the Administrative record, the court finds that the Commission's decision, upholding the Town's action in terminating the plaintiff as reasonably justified, is supported by substantial evidence and warranted by the facts, is legally sound and was not arbitrary, capricious or an abuse of discretion. Accordingly, the plaintiff's motion for judgment on the pleadings is DENIED.

Hogan, J.