

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

EDWARD SANCHEZ,
Appellant

v.

G2-14-268

SPRINGFIELD FIRE DEPARTMENT,
Respondent

Appearance for Appellant:

Marshall T. Moriarty, Esq.
Moriarty Law Firm, Inc.
34 Mulberry Street
Springfield, MA 01105

Appearance for Springfield Fire Department:

Maite Parsi, Esq.
City of Springfield
36 Court Street
Springfield, MA 01103

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On November 15, 2014, the Appellant, Edward Sanchez (Mr. Sanchez), a permanent Fire Lieutenant who is currently serving as a temporary Fire Captain in the Springfield Fire Department (Department), filed an appeal with the Civil Service Commission (Commission), contesting the Department's decision not to promote him to the position of permanent Fire Captain.

On January 14, 2015, I held a pre-hearing conference that was attended by Mr. Sanchez, his counsel, counsel for the Department and the Springfield Fire Commissioner (the Appointing Authority).

In summary, Mr. Sanchez argues that his current “temporary” appointment, which became effective August 11, 2014, would have been “permanent” but for an “error” by the Department appointing two (2) permanent Fire Captains (from a prior eligible list) when there was purportedly only one (1) vacancy for permanent Fire Captain. Mr. Sanchez is asking the Commission to vacate one (1) of the prior permanent appointments and order the Department to use the new eligible list (upon which Mr. Sanchez’s name appears first) to make a permanent appointment, effective August 11, 2014.

G.L. c. 31, § 2(b) allows the Commission to hear appeals from a “person aggrieved” and Chapter 310 of the Acts of 1993 allows the Commission to grant relief to persons whose rights have “been prejudiced” through no fault of his own. Even if all of the Mr. Sanchez’s allegations were true (for which I have reached no conclusion), he has not shown that he is a person aggrieved and/or that his rights have been prejudiced.

Since August 11, 2014, Mr. Sanchez has been serving in the Department as a “temporary Fire Captain”. Prior to the expiration of the current eligible list (upon which Mr. Sanchez ranks first), the Department anticipates that there will be an additional permanent Fire Captain vacancy for which Mr. Sanchez will be considered. In the interim, Mr. Sanchez has not shown that serving as a temporary (as opposed to permanent) Fire Captain has caused him to be aggrieved and/or prejudiced his rights. He is being compensated at the same rate as a permanent Fire Captain and it appears that, while serving as a temporary Fire Captain, he is accruing the same “training and experience” credit that he would have received as a permanent Fire Captain. Further, it appears that, prior to the expiration of the current eligible list, there will be a permanent Fire Captain position for which he can be considered. Thus, at this time, Mr. Sanchez cannot show that he is

a person aggrieved and/or that his rights have been prejudiced, even if all of this allegations regarding the Department are true.

For this reason, Mr. Sanchez's appeal under Docket No. G2-14-268 is hereby *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on February 19, 2015.

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:

Marshall Moriarty, Esq. (for Appellant)
Maite Parsi, Esq. (for Springfield Fire Department)
John Marra, Esq. (HRD)anch