

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

100 Cambridge Street: Suite 200
Boston, MA 02114
(617) 979-1900

STEPHEN SCIARA &
DOMINIC SCIARA,
Appellant

v.

TOWN OF HOLBROOK,
Respondent

E-24-063 (Dominic Sciara)
E-24-064 (Stephen Sciara)

SUMMARY OF DECISION

After providing two former Holbrook firefighters with repeated opportunities to exercise their due process appeal rights, the Commission dismissed their appeals based on their failure to prosecute their appeals, including failing to appear for scheduled hearings without good cause.

DECISION

On June 15, 2022, the Civil Service Commission (Commission) issued a [decision](#) granting the parties' joint request for relief related to the Appellants, Stephen Sciara and Dominic Sciara (Appellants), two former firefighters of the Town of Holbrook (Town)'s Fire Department. As referenced in the June 15, 2022 decision, the relief ordered by the Commission was based on the unique circumstances related to the Appellants' separation from employment from the Town.

In short, prior to the Commission's involvement in this matter, the Town and the Appellants had entered into an agreement by which the Appellants would be deemed laid off under Section 39 of Chapter 31, which would allow them highly beneficial, state-wide "re-employment rights", placing them at the top of firefighter eligible lists in every civil service city and town across Massachusetts for two years. The proposal caught the attention of the Professional Firefighters Association of Massachusetts (PFFM), which filed a request for an investigation with the Commission.

At or around the time that the Commission held an initial show cause conference regarding the PFFM's request for investigation, the state's Human Resources Division (HRD) effectively ruled that the Appellants were *not* entitled to these statewide re-employment rights, as no § 39 "layoffs" had occurred—given that the Appellants were not the least senior members of the Town's Fire Department at the time of their separation. With the issue of potential statewide re-employment rights for the Appellants off the table, the PFFM withdrew their request for investigation.

At or around the same time, the Appellants, through counsel (Attorney Joseph Sulman), filed appeals with the Commission, effectively contesting their separation from employment, given HRD's determination that they were not entitled to statewide re-employment rights, a key part of the agreement between the Town and the Appellants related to the Appellant's separation. The Town filed an answer stating in part that the agreement included a provision entitled "Severability" that provided that if any portion of the agreement were to be held unconstitutional, invalid or unenforceable, the remainder of the agreement would remain in full force and effect.

It was against this backdrop that the Commission, working with counsel for the Appellants and the Town, facilitated a joint request for relief tailored to the unique circumstances at hand. Specifically, the Commission, on June 15, 2022, pursuant to its authority under Chapter 310 of the Acts of 1993, allowed a joint request for relief that stated as follows:

1. The state's Human Resources Division (HRD) shall place the names of Stephen Sciara & Dominic Sciara at the top of any current or future certifications for **Holbrook firefighter** until such time as they have been restored to their position(s) as firefighter(s) in the Town's Fire Department or the Town, after consideration, decides not to restore their employment.
2. When the Appellants' names are placed on the top of the certification(s), the Town is permitted to consider, notwithstanding the 2N+1 formula established by the Personnel Administration Rules, one, or two, as warranted, additional candidate(s) (in rank order) from that certification among those willing to accept appointment, depending on the number of vacancies. For example, if there is one vacancy, one additional candidate may be considered. If there are two vacancies, two additional candidates may be considered.
3. If the Town, upon filling a vacancy, decides to restore either Appellant as a Holbrook firefighter, he shall be restored to his position with no back pay. Any civil service seniority shall be determined consistent with an employee being reinstated under G.L. c. 31, § 46.
4. **If the Town, upon filling a vacancy, decides not to restore either Appellant as a Holbrook firefighter, he shall have the right to contest the Town's decision by filing an appeal with the Commission within 10 days of being notified of said decision.**
5. **Upon receipt of a timely appeal from either Appellant, the Commission shall conduct an expedited hearing under the procedures and standards contained in G.L. c. 31, § 41A.**

Per agreement of the parties, the Commission, applying a just cause standard, will determine whether the Appellant should be restored to the Holbrook Fire Department as a firefighter. If either Appellant is ordered restored by the Commission, he shall be entitled to back pay as of the date of Town's decision not to restore him. Any civil service seniority shall be determined consistent with an employee being reinstated under G.L. c. 31, § 46.

This June 15, 2022 order of relief was sent to counsel for the Appellants and the Town via email and posted to the Commission's website.

On May 9, 2024, the Appellants filed appeals with the Commission referencing the Commission's June 15, 2022 order. They attached correspondence from the Town stating that the Town, after consideration, would not be restoring the Appellants to their former positions as firefighters, thus triggering the Appellants' appeal rights as referenced in paragraphs 4 and 5 above. After the filing of these appeals, the Appellants, through new counsel (Howard Lenow) and counsel for the Town, notified the Commission that they were, once again, involved in settlement discussions, ultimately asking the Commission to authorize so-called one-day reinstatements for the Appellants to the Holbrook Fire Department to facilitate transfers to other civil service fire departments in Massachusetts. The Commission notified the parties that any reinstatements must be authorized by HRD, not the Commission, and only after it was determined that such reinstatements were in the public's interest.

Ultimately, it appears that HRD either rejected or failed to respond to the parties' requests for reinstatement. For that reason, the Commission, in accordance with Sections 41-43 of Chapter 31 and Paragraph 5 of the June 15, 2022 decision, ordered a full evidentiary hearing to be held. Specifically, on August 29th and 30th, 2024, the parties were sent a Procedural Order and Notice of Full Hearing detailing the steps required for the parties to prepare for an in-person full hearing before the Commission on November 19, 2024. As part of those notices, the parties were notified that all proposed exhibits and names of witnesses must be submitted to the Commission no later than November 5, 2024. The Town sought, and the Commission approved, the Town's request for a two-day extension, applicable to all parties. Subsequently, the Commission again extended the exhibits-filing and participants-identification deadline to November 13, 2024.

On November 13, 2024, the Town filed its proposed exhibits and list of witnesses with the Commission. That same day, the Appellants notified the Commission that they were proceeding *pro se* and made a procedural inquiry regarding the assigned docket numbers, to which the Commission responded the same day.

On November 15, 2024, four days prior to the scheduled full hearing on November 19, 2024, the Commission received the following email from counsel for the Town, copied to the Appellants:

I'm writing to let you know that the parties have come to an agreed-upon resolution in this matter. As part of that agreement, the Sciaras will be reaching out to the Commission to withdraw

their appeals with prejudice and remove their names from the Holbrook Fire Department requisition list.

Please let me know if there are any further procedural steps that the Town or the Sciaras should be taking to effectuate the settlement of this matter.

As of the scheduled date of the hearing (November 19, 2024 at 9:30 A.M.), the Appellants had not submitted a notice of withdrawal of their appeals to the Commission. After the no parties appeared at the Commission at 9:30 A.M. on November 19th, the Commission sent an email to the Appellants at 9:57 A.M. that same day stating:

Mr. Dominic Sciara and Mr. Stephen Sciara,

Please reply all as to whether you are withdrawing your appeals.

After receiving no reply from the Appellants, the Commission, after follow-up inquiry (also with no reply), issued on January 7, 2025, an Order to Show Cause why the Appellants' appeals should not be dismissed for failure to prosecute their appeals.

On January 14, 2025, the Appellants sent an email to the Commission which failed to address why they did not appear for the full hearing on November 19th, but, rather, accused the Commission of engaging in harassment and being a "kangaroo court". Notwithstanding the Appellants' failure to provide good cause for failing to attend the hearing, the Commission, exercising restraint and a desire to ensure that the Appellants were provided with an opportunity to vindicate their due process appeal rights before the Commission, re-scheduled the full hearing for February 4, 2025. Specifically, on January 14, 2025, the Appellants and the Town were sent a notice of full hearing with instructions on how to prepare for the February 4th hearing.

On January 20, 2025, the Appellant sent an email to the Commission's General Counsel, re-stating their above allegations against the Commission and, for the first time, suggested that they were unaware of the details of the joint agreement approved by the Commission on June 15, 2022, despite the reality that:

- The Appellants were represented by counsel when that 2022 decision issued.
- The Appellants had specifically referenced that decision in their most recent appeal to the Commission.
- The Chair of the Commission had recently addressed specific provisions of that decision in response to an inquiry by the Appellants.

Notwithstanding the above, the Commission's General Counsel promptly responded to the Appellants' inquiry, referencing the prior communication above and providing responsive inquiries related to procedural issues and inviting the Appellants to seek counsel with respect to certain inquiries which constituted a request for legal advice.

On February 4, 2025 at 9:30 A.M., the Town, its counsel, and its witnesses appeared at the offices of the Commission for the scheduled full hearing. After the Appellants failed to appear, the Commission sent (another) order to show cause why the Appellants' appeals should not be dismissed based on their failure to prosecute their appeal by not appearing for the full hearing. The Appellants replied with a non-responsive email effectively demanding that the Commission answer their legal questions referenced above—but not providing any good cause for failing to attend the scheduled hearing. The Town submitted a response asking that the Commission dismiss the Appellants' appeals based upon their failure to appeal and prosecute their appeal.

In summary, the Commission has taken extraordinary steps to ensure that the Appellants were given the opportunity to exercise their due process appeal rights. Despite repeated opportunities to do so, the Appellants have failed to prosecute their appeals in any meaningful way by failing to submit exhibits or witness lists and, most troubling, knowingly failing to appear on two occasions for scheduled full hearings before the Commission.

For all the above reasons, the Appellants' appeals under Docket Numbers E-24-063 & E-24-064 are hereby ***dismissed*** based on the Appellants' repeated failure to prosecute their appeals.

Civil Service Commission

/s/ Shawn C. Dooley
Shawn C. Dooley
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, and Stein, Commissioners) on March 6, 2025.

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 to:
Dominic Sciara (Appellant)
Stephen Sciara (Appellant)
Michael Macarro, Esq. (for Respondent)
Joseph Proctor, Esq. (for Respondent)