

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

DOMINIC SCIARA,
Appellant

v.

E-18-173

TOWN OF HULL,
Respondent

Appearance for Appellant:

Brian Rogal, Esq.
Angoff Goldman
100 River Ridge Drive: Suite 203
Norwood, MA 02062

Appearance for Respondent:

James Lampke, Esq.
115 North Street, Suite 3
Hingham, MA 02043

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On September 10, 2018, the Appellant, Dominic Sciara (Mr. Sciara), who serves as the President of the local firefighters' union in Hull, filed an appeal with the Civil Service Commission (Commission) asking that: "... the Town of Hull be ordered to request that the [Fire Captain] examination be offered to its eligible firefighters and that [the state's Human Resources Division] HRD be ordered to make that test available to eligible Hull firefighters. This petition is being filed because Hull has been filling a Captain's vacancy since at least May 2018 but has refused to call for an examination."
2. On September 18, 2018, I had a pre-hearing conference at the offices of the Commission which was attended by Mr. Sciara, counsel for both parties and representatives of the Hull Fire Department and the local firefighters union.
3. As part of the pre-hearing conference, the Town stated that a promotional examination for Fire Captain is currently scheduled to take place on November 27, 2018. The Town has obtained permission to conduct a "Sole Assessment Center" pursuant to a Delegation Agreement signed on August 28, 2018.

4. Counsel for the Appellant clarified that the reason for filing this appeal was related to an ongoing dispute between the Town and the local firefighters union regarding whether this promotional examination should take the form of an Assessment Center or, rather, the more traditional written / multiple choice examination. Specifically, the Appellant is asking the Commission to issue an order that Hull firefighters be allowed to sit for a written / multiple choice examination for Fire Captain being held by HRD on November 17, 2018. As stated in a subsequent written submission, the Appellant is seeking this order “ to preserve the possibility of a meaningful remedy from [the Division of Labor Relations] DLR ...” where this matter is currently be contested.
5. I established an expedited briefing schedule; the Town submitted a Motion to Dismiss; the Appellant filed a reply; and both parties addressed the issue of whether the Commission, in the alternative, should initiate an investigation under G.L. c. 31, s. 2(a).

I have carefully reviewed the parties’ briefs. The Town’s decision to hold an Assessment Center is not a violation of the civil service law and Mr. Sciara cannot show that he is an aggrieved person. Further, an investigation, which may be initiated at the Commission’s discretion, which is exercised only sparingly, is not warranted here.

For these reasons, Mr. Sciara’s appeal is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a 4-1 vote of the Civil Service Commission (Bowman, Chairman - Yes; Camuso - Yes, Ittleman – Yes, Stein- Yes and Tivnan-No, Commissioners) on November 8, 2018.

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:

James Lampke, Esq. (for Appellant)

Brian Rogal, Esq. (for Respondent)

Michael Downey, Esq. (HRD)