

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

ANTHONY SHAHEEN,
Appellant
v.

CITY OF METHUEN,
Respondent

Case No.: G1-09-347

DECISION

In 2009, the Appellant, Anthony Shaheen, filed this appeal with the Civil Service Commission pursuant to G.L. c.31, § 2(b) when he was not selected for the position of reserve firefighter in the Methuen Fire Department.

At that time, the Appellant had been interviewed by the then-Fire Chief and Deputy Fire Chief and ranked 13th among 16 individuals recommended for appointment.

The City's Mayor, who serves as the Appointing Authority, did not accept the above-referenced recommendation of the Fire Chief and Deputy Fire Chief to appoint the Appellant.

While the Appellant's appeal was pending, the Commission conducted an investigation regarding the overall hiring process. As part of that investigation, the Commission concluded that the City had failed to notify the state's Human Resources Division (HRD) of these appointments and/or the reasons for selection or non-selection, making the appointments invalid as the eligible list had expired.

As part of its investigation, the Commission ordered the 2006 eligible list and Certification No. 280591 to be reinstated for the purpose of allowing the City to conduct a new selection process and select 15 reserve firefighters from the 2006 eligible list. By the time the Commission's decision regarding the investigation was issued, the Fire Chief who made the initial selections, and ranked the Appellant 13th, had retired.

The City subsequently selected 15 reserve firefighter candidates from the revived eligible list and Certification. No additional interviews were conducted. The Appellant was not among those selected for appointment.

The non-selection reason proffered by the City regarding the Appellant was: "While Mr. Shaheen had an average interview, he has minimal knowledge of what the position entails and since he is in a tie situation with 25 other individuals, he did not stand out above the rest."

As it is undisputed that the Appellant was ranked 13th by the Fire Chief and Deputy Fire Chief as part of the only interviews conducted and in an effort to resolve this matter without further litigation, the City does not oppose the following order being entered by the Commission.

Pursuant to Chapter 310 of the Acts of 1993, the Commission hereby orders the state's Human Resources Division, or the City of Methuen in its delegated capacity, to place the name of Anthony Shaheen at the top of the next Certification issued to the City of Methuen for the position of reserve firefighter until such time as he receives at least one additional consideration.

In the event that the City eventually exhausts its existing roster of reserve firefighter candidates and opts not to continue the practice of appointing full-time firefighters from a reserve roster, Mr. Shaheen's name shall be placed at the top of the next Certification issued to the City of Methuen for the position of full-time firefighter until such time as he receives at least one additional consideration.

In light of the unique circumstances in this particular appeal, the Appellant waives his right to a retroactive civil service seniority date in the event that he is appointed as a full-time or reserve firefighter.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis and Stein, Commissioners [McDowell – Absent]) on September 22, 2011.

A True Record. Attest:

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)(1), 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 to:
Anthony Shaheen (Appellant)
Peter J. McQuillan, Esq. (for Appointing Authority)
John Marra, Esq. (HRD)