

NOTIFY
COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
No. 12-2386H

MARK WAUGAMAN,
Plaintiff

vs.

MASSACHUSETTS CIVIL SERVICE COMMISSION AND
THE TOWN OF FALMOUTH,
Defendants

ORDER ON CROSS-MOTIONS FOR JUDGMENT ON THE PLEADINGS

After hearing, and review of the materials submitted, I find that the decision of the Civil Service Commission must be affirmed. Plaintiff fails to show that the hearing officer lacked substantial evidence in his decision to uphold the Town of Falmouth's dismissal of the plaintiff from his position as a firefighter. Plaintiff focuses his argument on the credibility of the witnesses. There is, however, substantial evidence for the hearing officer to find that the witnesses who testified adverse to plaintiff were more credible than plaintiff. Moreover, the credibility of the witnesses is generally not open to Superior Court review under G.L. c. 30A. Finally, plaintiff's argument that he was denied the opportunity to present additional evidence must fail. This issue was adequately addressed in the previous hearings, and a motion to present additional evidence was previously denied in the Superior Court.

Accordingly, there is no basis upon which the court may overturn the Commission's findings, made after a full evidentiary hearing.

*Notice sent
11.18.13
KSC
TW
KSC/LF/LL
RLQ/m
RAG
LJP
CLTP
(md)*

CONCLUSION AND ORDER

For the reasons stated above, it is ordered that the plaintiff's Motion for Judgment on the Pleadings is DENIED, and the defendant's Motion for Judgment on the Pleadings is ALLOWED. Judgment shall enter AFFIRMING the decision of the Massachusetts Civil Service Commission. This action is DISMISSED.

By the Court,



Edward P. Leibensperger
Justice of the Superior Court

Date: November 18, 2013

Notice sent

11.18.13

(md)