

**COMMONWEALTH OF MASSACHSETTS
CIVIL SERVICE COMMISSION**

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

STEPHEN WELTON,
Appellant

v.

**BOSTON FIRE
DEPARTMENT,**
Respondent

Case No.: G1-07-288

ORDER OF DISMISSAL

Pursuant to G.L. c. 31, § 2(b), the Appellant filed an appeal with the Commission regarding the Boston Fire Department's decision to bypass him for appointment to the position of firefighter.

A pre-hearing was conducted at the Commission on October 24, 2007 at which time the Boston Fire Department filed a Motion to Dismiss the Appellant's appeal. As grounds for dismissing the Appellant's appeal, the Boston Fire Department argued that the Appellant did not meet the minimum qualifications for the position of firefighter given the Appellant's criminal record, his failure to meet residency requirements and a falsified employment application.

At the pre-hearing conference, the Appellant did not dispute the above-referenced criminal history, but argued that he did meet the City's residency requirement.

The Appellant was given until November 30, 2007 to respond to the Appointing Authority's Motion to Dismiss. On December 10, 2007, having received no response from the Appellant, the Commission extended the deadline for filing a response to the City's Motion to Dismiss until December 28, 2007. The Appellant did not submit a response to the Commission.

801 CMR 1.01(7)(h) provides in part, "When a Party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he is entitled to prevail as a matter of law, the Party may move, with or without supporting affidavits, for summary decision on the claim or defense."

There is no genuine issue of fact relating to one of the primary reasons for bypassing the Appellant, his criminal record. Further, the Appellant has failed to respond to the Appointing Authority's Motion to Dismiss, despite the additional time that was provided by the Commission.

For these reasons, the Appellant's appeal under Docket No. G1-07-288 is hereby *dismissed*.

Civil Service Commission

Donald R. Marquis
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Guerin, Henderson, Marquis and Taylor, Commissioners) on January 10, 2008.

A True Record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a 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 the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Robert J. Boyle, Esq. (for Appointing Authority)

Stephen Welton (Appellant)

John Marra, Esq. (HRD)