

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

JEFFREY PEREIRA,

Appellant

v.

**SPRINGFIELD FIRE
DEPARTMENT,**

Respondent

Case No.: G1-12-70

ORDER OF DISMISSAL

On December 15, 2011, the Civil Service Commission (Commission) issued findings, conclusions and orders resulting from an investigation of the hiring practices of the Springfield Fire Department (Department). (See Investigation Re: 2010 / 2011 Review and Selection of Firefighters in the City of Springfield, 24 MCSR 627 (2011)).

As part of that decision, the Commission ordered that certain non-selected candidates, including candidates in a tied position with the son of the Department's Deputy Fire Chief, be able to contest their non-selection by filing an appeal with the Commission.

On February 24, 2012, the Appellant, Jeffrey Pereira, who met the above criteria, filed an appeal with the Commission contesting his non-selection.

On March 28, 2012, a pre-hearing conference was held at the Springfield State Building in Springfield, MA, which was attended by the Appellant, counsel for the Department and the Deputy Fire Chief.

Based on the statement of the parties and the documents submitted by the state's Human Resources Division (HRD), the following appears to be undisputed:

1. In April 2008, the Appellant took and passed an examination for the position of firefighter. At the time, the Appellant was living at 89 Sawmill Road in Springfield, MA.
2. In December 2008, HRD established an eligible list of candidates for Springfield firefighter. The Appellant's name appeared on that list.
3. On April 12, 2010 and April 28, 2010, HRD forwarded Certification No. 206437 to the Springfield Fire Department, containing a sufficient number of names to meet the statutory "2n + 1" formula regarding an ongoing hiring cycle in the Department.
4. The Appellant's name appeared on the April 28, 2010 Certification. As such, he received a postcard asking him to appear in person and sign the Certification if he was willing to accept appointment.

5. Sometime after April 28, 2010, the Appellant appeared at the Springfield Fire Department and signed the Certification. When he signed the Certification, his address, appearing under his name, was listed as 89 Sawmill Road in Springfield, MA.
6. When he signed the Certification, he was told that he would be mailed an application for employment. The Appellant did not inform the Department, at that time, or at any time in the future, that he had moved from 89 Sawmill Road in Springfield, MA to 32 Ardmore Street in Springfield, MA.
7. In October 2010, the Department, after learning that two (2) individuals had withdrawn from consideration, determined that the Appellant and other individuals in a tied group were now reachable under the statutory "2n + 1" formula and mailed applications to all of the tied candidates, with a filing deadline of October 21, 2010.
8. The Appellant's application was mailed to 89 Sawmill Road in Springfield, MA, the address that appeared on the signed Certification.
9. The Appellant, whose mail was forwarded to another address that his parents had moved to, did not receive the application until after the close of business on October 21, 2010.
10. The Appellant's father, who is a Springfield firefighter, went to the Springfield Fire Department the next business day and asked if the application could still be accepted, in light of the mail delay. He was told by Deputy Chief Prendergast that it could not.

CONCLUSION

The Appellant did not meet the filing deadline for returning an application for employment because he failed to notify HRD or the Springfield Fire Department of his change of address. Under any circumstances, it is the applicant's responsibility to inform HRD and the Appointing Authority of a change of address. That is particularly true here where the old, incorrect address, was listed on a Certification that the Appellant signed on or about April 2010. For this reason, the Appellant cannot show that he was harmed (not considered for appointment) through no fault of his own, a prerequisite for receiving equitable relief from the Commission.

While it remains troubling that the Deputy Fire Chief, whose son was among the candidates tied with the Appellant, was involved in the decision regarding whether the deadline should be extended for the Appellant, there is no evidence that other individuals were granted such an extension.

For these reasons, the Appellant's appeal under Docket No. G1-12-70 is hereby *dismissed*.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on April 19, 2012.

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:

Jeffrey Pereira (Appellant)

Jeffrey Krok, Esq. (for Respondent)

John Marra, Esq. (HRD)