

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108

MARIKA DUVAL,
Appellant

v.

G1-15-191

CITY OF SOMERVILLE,
Respondent

Appearance for Appellant:

James Lamond, Esq.
McDonald, Lamond, Canzoneri
352 Turnpike Road, Suite 310
Southborough, MA 01772

Appearance for Respondent:

Robert V. Collins, Esq.
City of Somerville
93 Highland Avenue
Somerville, MA 02143

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On October 15, 2015, the Appellant, Marika Duval (Ms. Duval), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the City of Somerville (City) to rescind her conditional offer of employment after a medical screening.

A pre-hearing was held on October 27, 2015 and a status conference was held on January 4, 2016, both of which were attended by Ms. Duval, her counsel and counsel for the City.

At the January 4th status conference, I was informed that Ms. Duval's medical disqualification had been overturned as a result of a re-examination.

On March 1, 2016, counsel for Ms. Duval was notified that the City still intends to bypass Ms. Duval but that a bypass letter has not been issued.

Since there is no live dispute over the employment decision that was the subject of this appeal, nor has there been a formal decision regarding an adverse employment decision, the Commission lacks jurisdiction to hear this appeals, which is *dismissed*.

If and when a bypass occurs, Ms. Duval may file a new appeal with the Commission upon receipt of the reasons proffered by the City, without the accompanying filing fee.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman

Chairman

By vote of the Civil Service Commission (Bowman, Chairman, Camuso, Ittleman, Stein and Tivnan, Commissioners) on March 17, 2016.

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 to:

James Lamond, Esq. (for Appellant)

Robert V. Collins, Esq. (for Respondent)