COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION

SUFFOLK, ss.

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STEVEN W. FUREY,
Appellant
v.
TOWN OF LYNNFIELD,
Respondent

CASE NO. D1-14-183

Appearance for Appellant:

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Commissioner:

Paul M. Stein

DECISION ON RESPONDENT'S MOTION TO DISMISS

The Appellant, Steven W. Furey, appeals to the Civil Service Commission (Commission) seeking reinstatement and other relief following his layoff as a wire inspector (electrical inspector) for the Town of Lynnfield (Lynnfield). Lynnfield moved to dismiss the appeal for lack of jurisdiction, asserting that Mr. Furey's appeal was untimely and that he was not a tenured civil service employee at the time of his layoff entitled to the layoff rights afforded to such employees under G.L.c.31. Mr. Furey opposed the motion. The appeal presents an issue of statutory interpretation substantially idendical to the issue raised in another appeal that the Commission decides today. (Martin Katz v. Town of Lynnfield, CSC No. D1-14-29. ["*Katz Decision*"]

Analysis

Based on submissions of the parties, including the documents and affidavits contained therein, and taking applicable administrative notice of the *Katz Decision*, as well as all relevant statutes, rules and regulations, I find the following facts are not in material dispute:

1. Steven W. Furey is a long-time Lynnfield resident duly licensed by the Commonwealth of Massachusetts as an electrician (Journeyman No. 23669; Master No. 8830). He is also a certified EMT and has served as a call fighter for the Lynnfield Fire Department since 1972. (*Appellant's Opposition [Furey Aff't]; Administrative Notice [http://license.reg.state.ma.us/loca/locaRange.asp?profession=Electrician&city=Lynnfield])*

2. Lynnfield is a town within the Commonwealth, established in 1782 and incorporated in 1814, which currently operates under Home Rule Charter adopted in 1971 and Bylaws adopted pursuant thereto. In 1950, Lynnfield's population was 3,927, which grew to 10,826 in 1970 and, in 2010, it had a population of 11,596. (*Administrative Notice [https:/en.wikipedia.org/wiki/Lynnfield_Massachusetts; Katz Decision]*)

3. In July 1983, upon retirement of the prior Wire Inspector, Jim Thompson, Mr. Furey was appointed as part-time Wire Inspector by the Lynnfield Board of Selectmen. (*Lynnfield's Motion to Dismiss* [*Gustus Aff't*]; *Appellant's Opposition [Furey Aff't; Personnel File]*)

4. The position of Wire Inspector falls under the Lynnfield Division of Zoning Enforcement and Inspections, which was directed by John Glennon, now deceased, who also served as the Lynnfield Building Inspector. Mr. Glennon held this position until the mid-1980s, when he was replaced by Wilfred C. Rogers. (*Appellant's Opposition [Furey Aff't]; Administrative Notice [Katz Decision]*)

5. In or about 2001, Lynnfield entered into an agreement with the Town of Wakefield to share the services of a Building Inspector who assumed the duties of supervising the Lynnfield Zoning Department. John Roberto has held this position since at least 2001. (*Administrative Notice [Katz Decision]*)

6. For some period prior to 1979, Mr. Glennon also served as the Lynnfield Sealer of Weights and Measures. He was replaced in 1979 in that position by Edward J. Michalski. (*Appellant's Opposition [Furey Aff't]; Administrative Notice [Katz Decision]*)

7. According to the Lynnfield Annual Reports for 1983 through 1987, Mr. Furey is listed as holding an "indefinite" appointment as Wire Inspector. Also listed as "indefinite" appointments are the Director of Finance & Administration, Director of Zoning, the Fire Chief, the Police Chief and one of the members of the Board of Registrars. Those same reports list the Sealer of Weights and Measures (Mr. Michalski) and the Plumbing Inspector (Mr. Howard) as holding "Civil Service" appointments. (*Appellant's Opposition [Lynnfield Annual Reports]*)[1]

8. On February 6, 1998, Mr. Furey completed an Employee Census in which he listed his title as "Inspector of Wires", working part-time. (*Appellant's Opposition [Furey Personnel File]*

9. Lynnfield has very limited personnel records pertaining to Mr. Furey's employment for the period from 1983 through 2000. Beginning in 2001, his personnel records include annual Personnel Status Forms, prepared by John Roberto, most of which reflect Mr. Furey in permanent, part-time status, working 15+ hours per week. His pay was a combination of 75% of the inspectional fees collected, except for larger projects where he received an hourly rate of pay. (*Appellant's Opposition [Furey Personnel File]*)

[1] Mr. Furey indicates that one of the members of the Lynnfield Board of Selectmen at this time was the late John F. Donegan. I take administrative notice that Mr. Donogan also served as a member of this Commission for a term that expired in 1983. (*Appellant's Opposition [Furey Aff't]*)

10. In response to Mr. Furey's request, Lynnfield provided a compilation prepared on or about July 31, 2014, showing Mr. Furey's hours worked and amount paid for the period from 1972 through July 2014. I infer that the compilation includes time and pay for both work as a call firefighter and, beginning in 1983, also for the wire inspector, which is not further broken out by position or, as to wire inspector, amounts paid for hourly work versus the 75% of fees. (*Appellant's Opposition [Furey Personnel File]*)

11. According to payroll compilation, prior to 1989, Mr. Furey worked between 276 and 1016 hours, and received a total pay between $1,334.13 and $6,498.18; from 1989 and 1993 he worked between 231.5 and 321.50 hours, and was paid between $10,693.29 and $17,538.98; thereafter, his hours ranged from a low of 797 in 2006 to a high of 3448 in 2003, while his pay rose steadily from $20,957.37 in 1995 (2664 hours) to $54,114.60 in 2013 (1163 hours). (*Appellant's Opposition [Furey Personnel File]*)

12. Mr. Furey has taken the civil service examinations for firefighter and for municipal police officer. He last took a civil service examination in 1981. He has neither applied to take nor has taken and passed any civil service examination for Wire Inspector. Neither Mr. Katz's initial appointment as Gas Inspector, Assistant Plumbing Inspector or Plumbing Inspector, nor his subsequent annual reappointments were made from a certification issued from any eligible list established for any such examination. (*Motion Hearing [Representation of Counsel]*)

13. On June 17, 2013, at a regular public meeting, the Lynnfield Board of Selectmen voted to pursue an agreement with the Town of Wakefield to regionalize its electrical, plumbing and gas inspectional services. The proponents of the regionalization plan did not question the technical ability of the current Lynnfield inspectors or the quality of their work, but believed the plan would provide cost savings to the town as well as enhanced services through shared availability.

Others, including Mr. Furey, disputed these alleged benefits. (*Lynnfield's Motion to Dismiss [Gustus Aff't]; Appellant's Opposition [Furey Aff't]; Administrative Notice [Katz Decision]*)

14. Due to the imminent regionalization, Mr. Furey was not reappointed as Wire Inspector. Rather, as of June 30, 2013, Mr. Furey, along with the other affected inspectors, were employed on a "hold-over" basis pending negotiation of the regionalization plan. The regionalization plan was consummated on or about August, 19, 2013. The positions held by Mr. Furey and the other Lynnfield inspectors then were abolished and they were terminated from employment, effective September 6, 2013. In accordance with the regionalization plan, all of their duties were assumed by full-time inspectors employed by the Town of Wakefield, with Lynnfield paying 40% of the total costs. (*Lynnfield's Motion to Dismiss [Gustus Aff't]; Appellant's Opposition [Furey Aff't]; Administrative Notice [Katz Decision]*)

15. Mr. Furey was not provided with prior written notice of the reasons for his termination and the opportunity to request a hearing to contest those reasons, or notice of "bumping" or reinstatement rights afforded to tenured civil service employees under G.L.c.31, §39 through §41. *Lynnfield's Motion to Dismiss [Gustus Aff't]; Appellant's Opposition [Furey Aff't]; Administrative Notice [Katz Decision]*)

16. On July 17, 2014, Mr. Furey appeared at the Commission motion hearing in the previously referenced appeal brought by Martin Katz. Through counsel, he sought to intervene in that proceeding, but this Commissioner denied that request, indicating that, any claims Mr. Furey may have, personally, needed to be addressed through a separately filed appeal. (*Appellant's Opposition [Furey Aff't]; Administrative Notice [Motion Hearing, Katz Decision]*)

17. On July 31, 2014, Mr. Furey filed this appeal with the Commission. His appeal form states that 6/17/2013 was the date he first received notice of the decision being appealed. (*Claim of Appeal*)

Applicable Legal Standard

A motion to dismiss an appeal before the Commission, in whole or in part, may be filed pursuant to 801 C.M.R. 1.01(7)(h). These motions are decided under the well-recognized standards for summary disposition as a matter of law, i.e., "viewing the evidence in the light most favorable to the non-moving party", the undisputed material facts affirmatively demonstrate that the non-moving party has "no reasonable expectation" of prevailing on at least one "essential element of the case". . See, e.g., Milliken & Co., v. Duro Textiles LLC, 451 Mass. 547, 550 n.6, (2008); Maimonides School v. Coles, 71 Mass.App.Ct. 240, 249 (2008); Lydon v. Massachusetts Parole Board, 18 MCSR 216 (2005)

Analysis

G.L.c.31,§41 prescribes that an appointing authority may abolish the position of a tenured civil service employee who holds permanency in a civil service position only for "just cause" and after prior notice of the reasons for the decision and opportunity for a hearing before the appointing authority, with further right of appeal to the Commission, to contest the reasons as unjustified. In addition, pursuant to G.L.c.31,§39, a tenured civil service employee whose official service position has been abolished must be given notice of, and afforded the opportunity to accept, a demotion (also known as "bumping") to a position in the next lower title or titles in the official service held by another employee junior in length of service, and to be reinstated, according to his seniority, to his former position "as soon as sufficient work or funds are available". Finally, if such an employee is laid off, his name is be placed on a statewide

"reemployment list" for two years, and must be considered ahead of other candidates on any certification issued for civil service positions for which he is deemed qualified.

Lynnfield argues that the Commission lacks jurisdiction to hear this appeal because Mr. Furey was not a tenured civil service employee with permanency in his position and, therefore, Lynnfield could abolish his position as part of its regionalization plan and to terminate his employment without affording Mr. Furey with rights accorded solely to tenured civil service employees under civil service law. Lynnfield also contended that Mr. Furey's appeal was untimely, having been filed almost a year after his termination, well beyond the 10 day appeal deadline for layoff appeals established by G.L.c.31, §§39 through 42.

Mr. Furey disputes these contentions, claiming that he did have permanent civil service status or, alternatively, should be deemed to have had that status under a variety of theories. He also contends that, having never been provided with any statutory notice of layoff, demotion, bumping or hearing rights, the deadline for filing this appeal was tolled and should not be dismissed as untimely. After carefully considering these contentions, I conclude that Mr. Katz is not a tenured civil service employee entitled to assert a violation of his rights under civil service law. Thus, this appeal must be dismissed for lack of jurisdiction.

Timeliness

On its face, Mr. Furey's appeal is clearly untimely. He admits that he received notice of the decision he is appealing more than a year before filing the appeal. More importantly, even if the Commission were to accept Mr. Furey's contention that his appeal rights were tolled by virtue of Lynnfield's failure to give him any notice whatsoever of his (disputed) civil service rights, his appeal was not duly docketed (with the required filing fee) until July 31, 2014, which is more than ten days after he clearly knew of his alleged rights (as evidenced by his purported request to

intervene in Mr. Katz's appeal on July 17, 2014). Thus, while the Commission eschews dismissal on technical grounds and recognizes that it can fairly be argued that he ought not be penalized when Lynnfield has failed to provide any notice of his rights whatsoever, this case is distinguishable from those in which the Commission indicated it would consider that tolling the otherwise jurisdictional filing deadline by a properly tenured employee might be lawfully appropriate. E.g., Dinicola v. City of Methuen, 22 MCSR 504 (2009) (appeal by tenured employee filed immediately after final decision by Mayor). See also Chartrand v. Register of Motor Vehicles, 347 Mass. 470, 475 (1964); Leite v. Commissioner of Mental Health, 4 Mass.App.Ct. 781 (1976) Moreover, to prevail in claiming tolling is appropriate, Mr. Furey, in effect, would have to persuade the Commission that even he had no idea he was a civil service employee until months after he was terminated. Thus, in attempting to succeed on a timeliness claim, Mr. Furey only adds a further reason to reject his otherwise unsubstantiated contention on the merits that he had civil service status, as further described below.

Civil Service Tenure

Lynnfield places its primary reliance on G.L.c.31, §48, ¶3, cl. 20, enacted by St. 1978, c.393, §11,[2] as amended by St. 1981, c.767, §21,[3] which added, to a list of several dozen previously enumerated exceptions to the definition of offices covered by civil service law, the following additional exemption:

> "Part-time municipal employees serving in the position of electrical inspectors, wiring inspectors, plumbing inspectors, gas inspectors, sealer of weights and measures and assistant sealer of weights and measures."

[2] The 1978 Act, entitled "An Act Recodifying the Civil Service Law", was omnibus legislation that reorganized Chapter 31 into what is its present form, and conformed other related laws to the newly renumbered chapter.

[3] The 1981 Act, entitled "An Act Providing for Certain Improvements of the Personnel Administration in the Commonwealth and its Political Subdivisions", made further sundry changes to the civil service, mainly focused on improved administration and management of the system, following the recommendations of a blue-ribbon commission. See The Special Commission on Civil Service Reform, "A Review of Operational Policies and Procedures of the Massachusetts Civil Service System" (May 1980) [*Administrative Notice [Katz Decision]*)

Lynnfield argues that, since there is no material dispute that Mr. Furey was employed as a part-time inspector, his position clearly is not a civil service position.

Mr. Furey strenuously disputes that the 1981 amendment adding the part-time inspector exclusion applies to him. He construes the exclusion to cover only part-time employees "serving as" inspectors who hold some actual title other than that of "inspector", but does not cover part-time employees, such as himself, who hold the title of "inspector". He also cites G.L.c.31, §57, ¶3, enacted by St. 1978, c.393, §11, which states:

> No person shall be certified by the administrator for appointment to the position of inspector of wires in a city or town unless he has been issued a certificate A or certificate B pursuant to section three of chapter one hundred and forty-one.

Neither party has identified judicial precedent, and the Commission is not aware of any, that construes the specific, dispositive, issue of statutory interpretation presented here. I am persuaded, however, that the statutory scheme most plausibly lends itself to the conclusion that the exception for part-time inspectors in G.L.c.31,§48, added to the Civil Service Law in 1981, was intended by the legislature to be applied according to its plain meaning – i.e., notwithstanding any previously enacted law that might arguably have suggested otherwise, a town may choose to appoint part-time wire inspectors through a process that does not require selection from the "classified civil service list" and such a part-time inspector's positions are expressly exempt from the provisions of civil service law.

First, I am not persuaded by Mr. Furey's argument that such a construction would read out of the exception, as surplus, the words "serving in the position of", and that the only meaning that can rationally be given to the part-time inspector exception is to apply it only to "faux" inspectors, who were assigned incidental inspection duties, but actually held other primary jobs, in order to give meaning to all of the words in the exception. Rather, it is Mr. Furey's contention

that speculates about legislative intent and does violence to the plain meaning of the statutory language. There is simply no rational basis to construe the plain meaning of the part-time inspector exception as meant by the legislature to solve such implied and implausible concerns.

Second, Mr. Furey's argument flies in the face of the maxim that related statutory provisions must be construed "so that they will accomplish harmoniously the legislative purpose so far as that can be ascertained." See, e.g., In re Adoption of Marlene, 443 Mass. 494, 498 (2005); Doliner v. Planning Board of Millis, 343 Mass 1, 5 (1961). In particular, when the legislature choses to enact a statute that addresses a subject with specificity, that statutory change must yield to any general statute on the subject, particularly when the specific statute was enacted after the general statute. See, e.g., Pereira v. New England LNG Co., Inc., 364 Mass. 109, 118-19 (1973). Thus, the specific language of the part-time inspector exception added to G.L.c.31,§48 is clearly paramount over any alleged conflict with the more general, previously enacted, provisions found in G.L.c.31,§57.

Third, even assuming Lynnfield's interpretation was mistaken and Mr. Furey's interpretation plausible that, despite the plain language, only some part-time inspector's positions were expressly removed from civil service in 1981, he faces specific impediments that preclude him from establishing his own civil service tenure (permanency). Most significantly, he never took and passed any type of civil service examination for wire inspector (although he did take other civil service exams), and was never appointed from a "classified civil service list", a statutory prerequisite to be granted tenured civil service status or placed on a "certification" within the meaning of G.L.c.31. Thus, at best, Mr. Furey could claim only "provisional" civil service status which provides no tenure or a statutory right to seek redress through appeal to the Commission for a layoff or disciplinary action. See, e.g., Mendonca v. Civil Service Comm'n, 86

Mass.App.Ct. 757, 762-63 (2014); Cordio v. Department of Correction, 59 Mass.App.Ct. 1110 (2004) (unpublished), affirming, 14 MCSR 361 (2001); Dallas v. Commissioner of Public Health, 1 Mass.App.Ct. 768, 771 (1974) citing Sullivan v. Commissioner of Commerce & Dev., 351 Mass, 462, 465 (1966) See also, Phillips v. Department of Public Health, 24 MCSR 25 (2012) and cases cited; Braz v. New Bedford School Dep't, 23 MCSR 757 (2010); Morin v. Boston School Comm., 23 MCSR 768 (2010); Burns v. City of Holyoke, 22 MCSR 637 (2009); Bayyat v. Department of Correction, 22 MCSR 394 (2009); Pearson v. City of Brockton, 22 MCSR 375 (2009); Maloof v. Town of Randolph, 21 MCSR 217 (2008); Rose v. EOHHS, 20 MCSR 266 (2007); DeMatteo v. Town of Saugus, 14 MCSR 15 (2001); Soloman v. City of Fall River, 13 MCSR 161 (2000); Varone v. Human Resources Div., 13 MCSR 24 (2000); Cronin v. City of Brockton, 7 MCSR 13 (1994) [4]

Fourth, insofar as Mr. Furey seems to seek to be "deemed" to have earned tenure on various theories, the undisputed facts establish that none of those theoretical possibilities are meritorious. He mainly points to G.L.c.31,§16, and other related legislation that, from time to time, authorized the Personnel Administrator (HRD) and his predecessors, to implement a system of "unassembled" examinations by which certain professionally licensed personnel could demonstrate their qualifications based on passing the professional examination from which they, then, could be placed on a civil service list and subsequently earn tenure through an original appointment or promotion from such a list. See G.L.c.31,§16. See also St.1967,c.780; St.1969,c.298,§2; St.1978,c.393,§11; St.1981,c.767. These alternative exam provisions,

[4] Mr. Furey also seeks to support his claims, in part, by reference to excerpts from the Annual Reports of the Massachusetts Civil Service Director [now HRD] dating back to 1953, and hearsay from various former Lynnfield town officials, that purport to show that Mr. Furey had "indefinite" status and must have been hired as a civil service employee. Neither the civil service statistics, nor the speculative hearsay, add material facts upon which the Commission need rely, and fails to provide a plausible basis to support his argument, which is inconsistent with the treatment given to Mr. Furey in all of the Lynnfield's Annual Town Reports during the same period ("indefinite" is not necessarily inconsistent with "provisional") and the other undisputed facts in the record that contain no suggestion of civil services status.

however, are not self-executing but still required that HRD implement the examination program and that the employee take the prescribed exams and complete the other necessary steps to be placed on an appropriate civil service list from which he then could be appointed or promoted. For example, for a limited period of time (between 1998 and 2008), HRD offered a (now-defunct) program (called ConTest) which provided an alternative exam process for creating civil service lists that could be used making certain permanent appointments and promotions. See, e.g., Dinicola v. City of Methuen, 22 MCSR 504 (2010) (appellant had applied through ConTest exam process); Hantman v. Department of Mental Retardation, 19 MCSR 226 (2006) (appellant had, in fact, taken and passed unassembled examination); Kogut v. Department of Mental Retardation, 14 MCSR 153 (2001) (same); cf. In re Civil Service Status of Seven Employees of the City of Springfield, 27 MCSR 230 (2014) (ConTest had expired); DelFavero v. Department of Correction, 25 MCSR 172 (2012) (ConTest did not apply to position)

Here, it is undisputed that Mr. Furey never sought to take advantage of ConTest or other allegedly applicable "unassembled examination" program, if any, or that he ever was appointed to any position "after examination" from any kind of eligible list in 1983 or at any time thereafter. Mr. Furey's hypothesis, based entirely on speculation, simply asks the Commission to assume it "must" have been done "somewhere" during his employment, is woefully short of stating any viable claim. See, e.g., Hester v. Civil Service Comm'n, 78 Mass.App.Ct. 1109 (2010) (unpublished) (rejecting provisional building inspector's request to make his a tenured employee), citing Thomas v. Civil Service Comm'n, 48 Mass.App.Ct. 446, 452-53, rev.den., 726 N.E.2d 414 (2000); cf. Bedinotti v. City of Springfield, 23 MCSR 239 (2010) (appellant granted limited prospective relief based on his established permanency stemming from an original appointment from 1986 eligible list); Ottomaniello v. City of Springfield, 25 MCSR 207 (2012)

(appellant granted relief when HRD delegated to City duty to administer ConTest exams and City erroneously failed to follow procedure and revoked appellant's permanency by mistake)

Mr. Furey's other contentions are equally without merit. The fact that his predecessor and other personnel may have been treated as a civil service employee (correctly or not), does not estop Lynnfield from claiming that, when Mr. Furey assumed his duties as a wire inspector, he was not given such status, in reliance on the part-time inspector provision then in effect, which, for the reasons expressed above, clearly enabled that result. Neither is the allegation that Lynnfield failed to publish a list of its civil service employees or make required filings of civil service rosters with HRD germane to whether or not Mr. Furey was appointed to a tenured civil service position and his termination violated civil service law. Similarly, while Mr. Furey correctly notes that the term "part-time" is not defined in Chapter 31 and carries different meanings in other statutory contexts, those arguments do not change the fact that, here, it is undisputed that both Mr. Furey and Lynnfield always treated his position as "part-time." Indeed, it is hard to imagine it to be otherwise, given his substantial earnings in his other "part-time" position for Lynnfield as a call firefighter.[5]

Mr. Furey also argues that Lynnfield has not fully complied with his requests for documents in his personnel files that he asserts potentially could show that he had civil service status. He claims, therefore, under the doctrine of "spoliation", that the town is precluded from contesting that he is a tenured civil service employee. This argument is unpersuasive. Although a question might be raised as to why Mr. Furey's employment file contains little information prior to 2001

[5] Although not relevant, and not considered, in reaching the decision on this motion, it bears notice that, on the substance of Mr. Furey's alleged right to reinstatement, he would also bear a heavy burden to prevail on the merits that Lynnfield's decision to consolidate inspectional services with full-time Wakefield inspectors on a 40/60 cost sharing basis, was not a bona-fides municipal judgement but a pretext to layoff Mr. Furey. See, e.g., Amaral v. City of Fall River, 22 MCSR 653 (2009) and cases cited. It probably would require more than what Mr. Furey presented so far, namely, that cost-savings were not as large as represented and he had clashed with his supervisor over inspection of a major construction project in the past.

(coincidentally, when the current incumbent supervisor assumed responsibility), there is nothing that plausibly infers information prior to 2001, if any, that should have been kept by prior supervisors but went missing was the result of any negligent or intentional action after Lynnfield had been put on notice of Mr. Furey's claims to tenure in 2014. Thus, such information, if any, could not possibly constitute "evidence" that Lynnfield "lost or destroyed . . . known to be relevant for an upcoming legal proceeding", which is the predicate to invoking a doctrine of spoliation. cf. Weidemann v. The Bradford Group, Inc., 444 Mass. 697, 705-706 (2005) (employer on notice of wage claim "within weeks" of employee's termination); Keene v. Brigham & Women's Hospital, 439 Mass. 223, 234 (2003) (hospital claimed it had no medical records for critical 18 hour period of treatment in malpractice claim involving severely brain damaged newborn). Moreover, there can be no basis to infer, whatever and whenever documents, if any, went missing, that the missing documents were material to show tenure, i.e., that Mr. Furey had, in fact, taken a civil service examination, that his name had been placed on any "classified civil service list", or refute his own admission (in 1998) that he was employed solely on a "part-time" basis. Indeed, it would be highly unusual to apply the equitable doctrine of spoliation to Lynnfield for not keeping copies of these records which, if they ever did exist, Mr. Furey, apparently, did not keep as well.

Conclusion

In sum, for the reasons stated herein, the Commission lacks jurisdiction to hear this appeal. Therefore, Lynnfield's Motion to Dismiss is hereby ***granted*** and the appeal of the Appellant, Steven W. Furey, is ***dismissed.***

Civil Service Commission

/s/Paul M. Stein

Paul M. Stein, Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell, and Stein, Commissioners) on August 6, 2015.

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.

Notice:
Michael C. Walsh, Esq. (for Appellant)
Thomas A. Mullin, Esq. (for Respondent)
John Marra, Esq. (HRD)