

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

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

**GERALD ALSTON,**  
*Appellant*

v.

**TOWN OF BROOKLINE,**  
*Respondent*

**Case No.:** D1-16-155

**ORDER OF DISMISSAL EFFECTIVE OCTOBER 12, 2016**

On September 21, 2016, the Appellant, Gerald Alston (Mr. Alston), a firefighter for the Town of Brookline (Town), filed the instant appeal with the Civil Service Commission (Commission), arguing that the Town was not in compliance with G.L. c. 31, § 41, as a local hearing officer, who conducted a local hearing on August 30, 2016, had not reported his findings “forthwith” to the Appointing Authority, the Brookline Board of Selectmen.

On September 27, 2016, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. Alston, his counsel, counsel for the Town, the Town’s Fire Chief and a human resources representative for the Town.

For all the reasons outlined at the pre-hearing conference, this appeal is dismissed nisi, to become effective October 12, 2016. In the event that the Board of Selectmen has not provided Mr. Alston with a written notice of their decision by that date, the Commission will consider a Motion to Revoke this Order of Dismissal Nisi, to be filed no later than October 12, 2016, seeking to reinstate Mr. Alston’s appeal for further consideration. In the absence of a Motion to Revoke, the dismissal of this appeal shall become final for purposes of G.L. c. 31, § 44, on October 12, 2016.

Nothing in this decision is meant to address the substantive and/or jurisdictional issues pertaining to the fact that Mr. Alston has not been receiving compensation from the Town since sometime in February 2016.

Civil Service Commission

/s/ Christopher C. Bowman  
Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Stein and Tivnan [Ittleman – Absent]) on September 29, 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 as stated below.

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 from the effective date specified in 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:

Brooks A. Ames, Esq. (for Appellant)

Patricia Correa, Esq. (for Respondent)