

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

DONNA DeCOSMO,
Appellant

v.

D1-17-029

DEPARTMENT OF DEVELOPMENTAL
SERVICES,
Respondent

Appearance for Appellant:

Benjamin C. Rudolf, Esq.
Murphy & Vander Salm
One Mercantile Street: Suite 740
Worcester, MA 01608

Appearance for Respondent:

Melissa Thomson, Esq.
Human Resources Division
One Ashburton Place
Boston, MA 02108

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On February 13, 2017, the Appellant, Donna DeCosmo (Ms. DeCosmo), filed an appeal with the Civil Service Commission (Commission) contesting the decision of the Department of Developmental Services (DDS) to terminate her employment as a Registered Nurse II (RN II).

On March 7, 2017, I held a pre-hearing conference which was attended by Ms. DeCosmo, her counsel, counsel for DDS and DDS personnel. At this pre-hearing conference, the parties agree that Ms. DeCosmo, prior to her termination, was employed at DDS as an RN II since November 6, 2005, her date of hire.

G.L. c. 31, § 48 explicitly exempts the titles of physicians, registered nurses, graduate nurses, licensed practical nurses and student nurses from the civil service law. Thus, the Commission has no jurisdiction to hear this appeal.

For this reason, Ms. DeCosmo's appeal under Docket No. D1-17-029 is hereby *dismissed*.

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 16, 2017.

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. 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:
Benjamin C. Rudolf, Esq. (for Appellant)
Melissa Thomson, Esq. (for Respondent)