

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

HEATHER DUPONT,
Appellant

v.

B2-18-004

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Heather Dupont

Appearance for Respondent:

Melissa Thomson, Esq.
Human Resources Division
One Ashburton Place: Room 211
Boston, MA 02108

Commissioner:

Christopher C. Bowman

DECISION ON HRD'S MOTION FOR SUMMARY DECISION

On January 3, 2018, the Appellant, Heather Dupont (Ms. Dupont), a police officer for the Everett Police Department, filed an appeal with the Civil Service Commission (Commission), contesting the decision of the state's Human Resources Division (HRD) to deny her any points for the Education and Experience (E&E) exam component on the 2017 Police Sergeant examination.

On January 30, 2018, I held a pre-hearing conference at the offices of the Commission which was attended by Ms. Dupont and counsel for HRD. At the conclusion of the pre-hearing conference, I set a briefing schedule for HRD to file a Motion for Summary Decision and for Ms. Dupont to file a reply. HRD filed a Motion for Summary Decision, but Ms. Dupont did not file a reply.

G.L. c. 31, § 2(b) addresses appeals to the Commission regarding persons aggrieved by “... any decision, action or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations” It provides, inter alia, “No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record.”

Pursuant to G.L. c. 31, § 5(e), HRD is charged with: “conduct[ing] examinations for purposes of establishing eligible lists. G.L. c. 31, § 22 states in relevant part: “In any competitive examination, an applicant shall be given credit for employment or experience in the position for which the examination is held.”

G.L. c. 31 § 24 allows for review by the Commission of exam appeals. Pursuant to § 24, “[t]he commission shall not allow credit for training or experience unless such training or experience was fully stated in the training and experience sheet filed by the applicant at the time designated by the administrator.”

In Cataldo v. Human Resources Division, 23 MCSR 617 (2010), the Commission stated that “... under Massachusetts civil service laws and rules, HRD is vested with broad authority to determine the requirements for competitive civil service examinations, including the type and weight given as ‘credit for such training and experience as of the time designated by HRD.’”

The facts presented as part of this appeal are not new to the Commission. In summary, promotional examinations, such as the one in question here, consist of two (2) components: the traditional written examination, which accounted for 80% of the examination score here; and the E&E component, which accounted for 20% of the examination score here. HRD provides detailed instructions via email regarding how and when to complete the online E&E component

of the examination. Most importantly, applicants are told that, upon completion of the E&E component, the applicant will receive a confirmation email – and that the component is not complete unless and until the applicant receives this confirmation email.

Viewing the evidence in the light most favorable to Ms. Dupont, and accepting the statements that Ms. Dupont made at the pre-hearing conference¹, the evidence shows that Ms. Dupont completed the “Update Civil Service Account” application and falsely believed that she had completed the E&E component of the examination. HRD has no record of Ms. Dupont completing the E&E component of this promotional examination and Ms. Dupont cannot produce a confirmation email showing otherwise.

For these reasons, and all of the reasons stated in HRD’s motion, the Motion for Summary Decision is allowed and Ms. Dupont’s appeal under Docket No. B2-18-004 is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on June 7 , 2018.

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,

¹ At my request, we took a break during the pre-hearing conference for counsel for HRD and the Appellant to access the Appellant’s online account. We reconvened to review the information, which showed that the Appellant had completed the E&E component during a prior hiring cycle, but, here, only accessed the “Update Civil Service Account” module during the E&E window that is relevant for this promotional examination. The “Update Civil Service Account” module is primarily geared toward updating contact and other information and does not allow you to complete the E&E component of the examination.

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:

Heather Dupont (Appellant)

Melissa Thomson, Esq. (for Respondent)