

The State of New Hampshire

ROCKINGHAM COUNTY

SUPERIOR COURT

CHERYL DEAN

V.

TOWN OF NORTHWOOD, ET AL

Docket No.: 218-2019-CV-575

ORDER ON HEARING PETITION FOR RELIEF

On June 18, 2019, the Court held a hearing on Plaintiff Cheryl Dean's petition for relief, filed pursuant to RSA 159:6-e and 159:6-f. Plaintiff and Defendant Northwood Police Chief Glendon L. Drolet ("Chief Drolet") appeared through counsel. The Town of Northwood failed to appear. After hearing arguments and considering the applicable law, the Court finds Plaintiff is entitled to relief, and GRANTS her petition in part.

RSA 159:6, I(a) indicates "the chief of police of a city, . . . upon application of any resident of such town. . . shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver . . . Further, RSA 159:6, I(b) provides

"The license shall . . . bear the name, address, description, and signature of the licensee . . . The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and forms for the application for such licenses and to supply the same to officials of the . . . towns authorized to issue the licenses. No other forms shall be used by officials of . . . towns."

RSA 159:6, I(b). Here, Chief Drolet was directed by statute to be the authorizing agent to issue a license to all qualifying applicants. There is nothing in the record to suggest Plaintiff was unqualified, hence, Chief Drolet was mandated by statute to perform his

duty and issue a license to Plaintiff, utilizing the form supplied to him by the director of state police. On February 27, 2019, Chief Drolet issued Plaintiff a license. See Compl. Ex. 1. The license noted it was issued by “Northwood Police Department.” On the signature line for the “authorized signature,” Chief Drolet entered “Issued per RSA 159:6.” He left blank the line asking for the title of the person signing the license. After receiving this license, counsel for Plaintiff contacted Chief Drolet and informed him that the license had incorrect information and was not properly completed. Plaintiff asked that he re-issue the license with the requested corrections. Counsel warned Chief Drolet that if Plaintiff had to seek relief from the court, she would ask for cost as allowed by RSA 159:6-f. See, Compl. Ex. 2. Chief Drolet responded to this request by acknowledging the license had the wrong expiration date and preparing a new license with the corrected date. However, Chief Drolet refused to further change the contents of the license. See, Compl. Ex. 3. Thereafter, Plaintiff filed her complaint asking the Court to order Chief Drolet to sign and include his title on the license. She also asked for the Court to make the required findings to allow for an award of costs and fees. At the hearing, Plaintiff presented her argument consistent with her complaint. She relied on the attached exhibits for support.


Chief Drolet responds by stating nothing in RSA 159:6 requires his signature in order for the license to be valid. He does not address the issue of his title being absent from the license. At the hearing, Chief Drolet informed the Court that he consulted with the New Hampshire Attorney General’s office for guidance on complying with RSA 159:6 and was told he is not required to sign the license. He argued that he relied in good faith with this instruction.

The Court finds that RSA 159:6 does not require Chief Drolet's signature in order for the license to be validly issued. However, he must include his name as chief of police of Northwood, as it is the chief who has the authority to issue such licenses, not the police department generally. See, RSA 159:6 ("the chief of police of a city . . . upon application of any resident of such town. . . shall issue a license to such applicant authorizing the applicant to carry a loaded pistol or revolver . . .") (emphasis added). Therefore, Chief Drolet is hereby ordered to re-issue a license to Plaintiff wherein he deletes (after "issued by") the entry "Northwood Police Dept" [sic] and instead enters, "Chief Glendon L. Drolet, Chief of Police, Northwood, NH." See Compl. Ex. 4. The remainder of the license shall remain as previously prepared.

The Court also finds Plaintiff is entitled to fees and costs pursuant to RSA 159:6-f. While the Court does not find Chief Drolet acted in bad faith, the Court does find his actions were violative and that Chief Drolet knew or should have known that his actions were violative of the law. The Court finds the complaint was required to obtain Chief Drolet's compliance. Within 20 days, Plaintiff's counsel shall prepared and file with the court and Chief Drolet an affidavit of costs and fees. Chief Drolet shall thereafter have 10 days to file a responsive pleading. The Court will review these filings and issue a further order.

So ordered.

June 18, 2019
Date



Marguerite L. Wageling
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 06/18/2019