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**THE DISTRICT OF COLUMBIA**

**BEFORE**

**THE OFFICE OF EMPLOYEE APPEALS**

_____	)	
In the Matter of:	)	
	)	
Astley Burrowes	)	OEA Matter No. J-0115-05
Employee	)	
	)	Date of Issuance: October 11, 2005
v.	)	
	)	Sheryl Sears, Esq.
	)	Administrative Judge
Department of Human Services	)	
Agency	)	

Darryl F. White, Esq., Employee Representative  
Yvonne D. Gilchrist, Agency Director

**INITIAL DECISION**

INTRODUCTION AND FINDINGS OF FACT

Employee filed a petition for appeal with this Office on June 23, 2005 asserting that he was that he was “harmed financially by the erroneous reclassification” of his position. He conceded that Agency “partially rectified the situation by placing him in the correct series.” However, he seeks an order from this Office for Agency to review “his grade and step. . .for a further upgrade in light of the recent desk audit and the mistaken reclassification that occurred in 1991.”

On August 16, 2005, this Judge issued an order for Employee to submit in writing, a statement showing why his appeal should not be dismissed for lack of jurisdiction. The deadline for Employee’s submission was August 31, 2005. Employee did not comply with that order. The record is now closed.

BURDEN OF PROOF

OEA Rule 629.2, 46 D.C. Reg. 9297 (1999) states that “[t]he employee shall have the burden of proof as to issues of jurisdiction . . .”

JURISDICTION

As will be explained in the "Analysis and Conclusion" section, the jurisdiction of this Office has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

ANALYSIS AND CONCLUSIONS

Employee has the burden of proving that this Office has jurisdiction over his appeal. He did not submit a written argument in support of his position. The applicable law, however, is quite clear. The Office of Employee Appeals was established by the D.C. Comprehensive Merit Personnel Act of 1978 (CMPA), D.C. Law 2-139. The actions that a current or former employee of the District of Columbia government may appeal to the Office are listed at D.C. Official Code § 1-606.03. Effective October 21, 1998, Section 101(d) of the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, amended § 1-606.03 so that it now provides as follows:


- (a) An employee may appeal a final agency decision effecting a performance rating which results in removal of the employee... an adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more... or a reduction in force.

Accordingly, this Office does not have jurisdiction over an employee's classification appeal. Employee has failed to meet his burden of proving that the Office has jurisdiction and this appeal will be dismissed.

ORDER

It is hereby ordered that the petition for appeal in this matter is dismissed for lack of jurisdiction.

FOR THE OFFICE:

  
Sheryl Sears, Esq.  
Administrative Judge