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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	OEA Matter No.: 1601-0050-16C23
EMPLOYEE ¹)	
)	Date of Issuance: March 6, 2025
v.)	
)	
D.C. OFFICE OF THE)	
ATTORNEY GENERAL,)	
Agency)	
)	
)	

OPINION AND ORDER
ON
ADDENDUM DECISION
ON COMPLIANCE

Employee worked as a Support Enforcement Specialist with the D.C. Office of the Attorney General (“Agency”). On February 24, 2016, Agency issued an Advance Notice of Proposed Removal to Employee for “failing to satisfactorily perform one or more of the duties of [her] position” and “any on-duty employment-related act or omission that interferes with the efficiency or integrity of operations.” The charges were based on Employee’s failure to successfully complete the standards specified in her Performance Improvement Plan (“PIP”). On

¹ Employee’s name was removed from this decision for the purposes of publication on the Office of Employee Appeals’ website.

April 20, 2016, Agency issued its Final Decision on Proposed Removal, sustaining the charges against Employee. Her termination was effective on April 25, 2016.²

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on May 24, 2016. On October 22, 2018, the OEA Administrative Judge (“AJ”) issued an Initial Decision reversing Agency’s termination action. Thereafter, Employee and Agency sought review of the Initial Decision with the OEA Board.³ On July 16, 2019, the Board issued an order upholding the Initial Decision. Agency then filed an appeal with the Superior Court for the District of Columbia on August 13, 2019. On July 2, 2020, the Court denied Agency’s petition and affirmed OEA’s ruling reversing Employee’s termination. Agency subsequently appealed to the District of Columbia Court of Appeals. On May 23, 2023, the Court affirmed the Superior Court’s ruling.⁴

Employee filed a Motion to Enforce the Order from the District of Columbia Court of Appeals with this Office on July 21, 2023, wherein she argued that Agency failed to comply with the order to reinstate her with back pay and benefits. The AJ subsequently ordered the parties to submit briefs addressing both the compliance issue as well as a separate attorney fee request submitted by Employee.⁵ On November 27, 2023, Agency filed a Supplemental Motion in Lieu of Brief requesting that the AJ’s briefing order be vacated. It explained that on November 22, 2023, Employee was issued an offer letter of reinstatement as a Case Management Specialist, CS-301-11/10.⁶ In response, the AJ issued a January 2, 2024, order granting Employee’s request for an extension time to address any outstanding compliance issues. Employee submitted a filing on

² See *Agency’s Answer to Petition for Appeal*, Tab 12 (OEA Mater No. 1601-0050-16).

³ Although she was determined to be the prevailing party, Employee’s petition argued that she was unable to present certain documents during the evidentiary hearing; the prehearing statement was altered by her former attorney; and the prehearing conferences were not recorded.

⁴ Case No. 20-CV-0482 (May 23, 2023).

⁵ *Post-Status Conference Order* (November 28, 2023).

⁶ *Agency’s Supplemental Motion in Lieu of Brief* (November 27, 2023).

January 29, 2024; however, the AJ assessed that additional status conferences were required to resolve the matter.⁷

During a February 21, 2024, status conference, Employee indicated that she had yet to submit the required documents requested by Agency to effectuate her back pay, stating that it was illegal to do so under the District Personnel Manual (“DPM”). Employee further asserted that she refused to accept Agency’s offer of reinstatement because Agency failed to place her in her previous position within thirty days after the Court of Appeal’s decision became final. The AJ informed Employee that pursuant to DPM Instruction No. 11B-80, an employee’s failure to submit the required documentation necessary to calculate backpay would preclude them from receiving the amount owed. She also reminded Employee that that the instant compliance matter was initiated following her own Motion for Enforcement, and that the purpose of the process was to address the outstanding reinstatement and back pay issues.⁸ As a result, Employee was again ordered to provide a response to the AJ’s concerns no later than March 8, 2024.⁹ Employee’s response brief outlined her arguments pertinent to Agency’s alleged acts of misconduct but did not address the compliance issues.¹⁰

The AJ issued an Addendum Decision on Compliance on July 16, 2024. She explained that Employee filed a Motion for Enforcement after the Court of Appeals issued its May 23, 2023, order affirming the reversal of Agency’s termination action. The AJ stated that while Agency indicated that it could not initially locate a position identical to that held by Employee at the time of termination, the same position was ultimately identified. According to the AJ, Agency sent

⁷ *Employee’s Response to Agency’s Supplemental Motion in Lieu of Brief* (January 29, 2024).

⁸ *Post-Status Conference Order* (February 21, 2024).

⁹ *Id.* During the conference, Agency indicated that its offer letter had lapsed as a result of Employee’s refusal to provide a written acceptance.

¹⁰ *Employee’s Response* (March 8, 2024).

written notice to Employee on November 22, 2023, which provided that she was being reinstated to her previous position effective January 16, 2024. She went on to discuss how Agency's letter informed Employee that she was still required to submit the required documentation to process the restoration of backpay and benefits in accordance with Chapter 6B, Section 1149 of the D.C. Municipal Regulations ("DCMR"); that her orientation would begin on January 16, 2024; and that Employee was required sign the offer of reinstatement within five business days of the offer, or it would expire.¹¹

In assessing whether Agency complied with the reinstatement requirements, the AJ held that Employee refused to accept the position Agency identified in the November 22, 2023, letter of reinstatement, instead offering unrelated assertions of Agency's wrongdoing, fraud, forgery, and other illegal activities. The AJ characterized Employee's claim that it would be illegal for her to complete the paperwork to calculate backpay as wholly unfounded. Moreover, because Employee refused to submit the required paperwork as of the date of the addendum decision, the AJ concluded that this Office had no further measures for which it could take to ensure that Employee received the backpay owed to her. As a result, she ruled that Agency provided Employee reinstatement to her previous position of record with correct salary and grade/step; Agency complied with the October 22, 2018, Initial Decision to reinstate Employee; and Employee's refusal to accept the position was her own choice and not because of Agency's failure to comply. Since Agency complied with the Initial Decision, the AJ denied Employee's Motion for Enforcement.¹²

Employee subsequently filed a Petition for Review of the Addendum Decision on Compliance on August 19, 2024. She presents arguments related to her alleged misclassification

¹¹ *Addendum Decision on Compliance* (July 16, 2024).

¹² *Id.*

under the Fair Labor Standards Act (“FLSA”). Employee also contends that Agency committed acts of fraud, forgery, retaliation, revenge, and concealment of evidence, all of which serve as a basis for reversing her removal. As a result, she requests that the Initial Decision be declared invalid.¹³

In response, Agency submits that Employee’s petition related to compliance should be dismissed. It asserts that OEA’s rules do not provide an avenue for appealing decisions on compliance to the Board. Therefore, Agency maintains that OEA is unable to address Employee’s arguments related to its compliance with the October 22, 2018, Initial Decision.¹⁴

Discussion

OEA Rule 637.2 states that “any party to the proceeding may serve and file one (1) original and one (1) copy of a Petition for Review of an Initial Decision with the Board within thirty-five (35) calendar days of issuance of the Initial Decision.” Therefore, a party is permitted to file a petition for review of an Initial Decision. Section 640 of OEA’s rules, related to compliance and enforcement, provides no procedural avenue for an employee to appeal an addendum decision on compliance to the OEA Board. There is no mention of the OEA Board within any of the provisions of OEA Rule 640. Additionally, this Board has previously denied petitions for review of addendum decisions on compliance in *Employee v. Department of Employment Services*, OEA Matter No. 1601-0012-14AF22, *Opinion and Order on Attorney’s Fees* (March 2, 2023); *Employee v. D.C. Child and Family Services*, OEA Matter No. 1601-0058-01C07, *Opinion and Order on Petition for Review* (January 25, 2010); *Employee v. Department of Mental Health*, OEA Matter No. 1601-0046-12C16, *Opinion and Order on Compliance* (December 3, 2019); and *Employee v. Department of Health*, OEA Matter No. 2401-0020-10R17C19, *Opinion and Order on Petition*

¹³ *Petition for Review of Addendum Decision on Compliance* (September 23, 2024).

¹⁴ *Agency Answer to Petition for Review of Addendum Decision on Compliance* (September 24, 2024).

for Review (June 30, 2020). Because OEA's rules do not authorize this Board to review Employee's arguments related to compliance with the October 22, 2018, Initial Decision, her petition must be denied.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

FOR THE BOARD:

Dionna Maria Lewis

Arrington L. Dixon

Jeanne Moorehead

LaShon Adams

Pia Winston

Either party may appeal this decision on Petition for Review to the Superior Court of the District of Columbia. To file a Petition for Review with the Superior Court, the petitioning party should consult Superior Court Civil Procedure Rules, XV. Agency Review, Rule 1.