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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
EMPLOYEE ¹ ,)	OEA Matter No. J-0023-26
)	
v.)	Date of Issuance: March 30, 2026
)	
D.C. DEPARTMENT OF MOTOR VEHICLES,)	MONICA DOHNJI, Esq.
Agency)	Senior Administrative Judge
_____)	
Employee, <i>Pro Se</i>)	
Pamela Washington, Esq., Agency Representative)	

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On January 2, 2026, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the D.C. Department of Motor Vehicles’ (“DMV” or “Agency”) decision to terminate her from her position as a Supervisory Motor Vehicle Inspector, effective October 24, 2025. OEA issued a Request for Agency’s Answer to Employee’s Petition for Appeal on January 6, 2026. Thereafter, on February 5, 2026, Agency filed its Answer to Petition for Appeal, along with a Motion for Dismissal of Petition for Lack of Jurisdiction. Agency stated therein that OEA lacked jurisdiction over Employee’s Petition for Appeal because Employee’s appeal was untimely and Employee was a Management Supervisory Service (“MSS”) employee and served in an ‘at-will’ position at the time of her termination.

This matter was assigned to the undersigned Senior Administrative Judge (“SAJ”) on February 5, 2026. Subsequently on February 11, 2026, the undersigned issued an Order requiring Employee to address the jurisdiction issue raised by Agency in its Answer to Employee’s Petition for Appeal. Employee’s brief was due by March 2, 2026, and Agency had the option to file a response by March 16, 2026. Both parties submitted their respective briefs as required. On March 23, 2026, Employee filed a Notice of Non-Receipt of Agency’s Response and Request to Close Jurisdiction Record and Rule, citing that she had not received Agency’s brief on jurisdiction. Employee also requested that the undersigned close the jurisdiction record. Additionally, Employee cited that absent proof that Agency timely filed its response to Employee’s Brief on Jurisdiction by the March 16,

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

2026, deadline and timely served Employee, Agency's brief should not become part of the record.² Because I determined that this matter could be decided based on the documents of record, no proceedings were conducted. The record is now closed.

JURISDICTION

The jurisdiction of this Office pursuant to *D.C. Official Code, § 1-606.03 (2001)*, has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

BURDEN OF PROOF

OEA Rule § 631.1, 6-B District of Columbia Municipal Regulations ("DCMR") Ch. 600, et seq (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.³

OEA Rule § 631.2 *id.* states:

For appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee's Position

Employee asserts in her submission to this Office that she had a permanent career service status and maintains that OEA has jurisdiction over her appeal.⁴ Employee notes that OEA has jurisdiction over removals. Citing to 6B DCMR § 3813, Employee avers that "even for an MSS termination, the regulations require: (1) at least fifteen (15) days' notice and (2) prior authorization before a termination action may be initiated." Employee argues that her Notice of Personnel Action - Standard Form-50 ("SF-50") reflects permanent tenure. In addition, Employee contends that 6B DCMR § 3805.1 "preserves career service status during MSS-type assignments." She asserts that

² Employee's request to exclude Agency's Brief on Jurisdiction from the record for being untimely is **DENIED**. This Office received Agency's response to Employee's brief on jurisdiction on March 16, 2026, in compliance with the February 11, 2026, Order.

³ OEA Rule § 699.1.

⁴ Employee's Brief on Jurisdiction (February 25, 2026).

“accordingly, Agency’s reliance on an “MSS/at-will” label does not resolve the jurisdiction question where Employee’s underlying permanent Career Service status is at issue.”⁵

Employee further argues that even if she had an MSS status, pursuant to 6B DCMR § 3813.2, which provides that “no MSS termination action shall be initiated unless first authorized by the agency head (or designee) and DCHR (or the applicable independent authority),” Agency has not produced the required authorizations.⁶ Employee requests that Agency produce the written authorizations required pursuant to 6B DCMR § 3813.2 or “a sworn certification that no such authorization exists, identifying the official(s) who purportedly authorized the action and the date and manner of authorizations.”⁷

Employee also asserts that Agency’s termination notice caused the late filing of her Petition for Appeal with OEA. She explains that the termination notice affirmatively stated that her termination was “neither grievable or appealable,” and provided no OEA appeal rights notice and she reasonably relied on that notice. Employee further maintains that “OEA precedent recognizes an exception to the 30-day deadline where the agency fails to provide appeal-rights notice ...” As such, Employee requests that OEA consider her Petition for Appeal as timely under this exception or hold a jurisdiction hearing.⁸

Agency’s Position

Agency states in its February 5, 2026, Motion for Dismissal of the Petition based on Lack of Jurisdiction that Employee was an MSS employee at the time of her termination and as such, OEA lacked jurisdiction over this matter. Agency asserts that pursuant to D.C. Official Code § 1-609.54, an appointment to an MSS position is “at-will.” Citing to District Personnel Manual (“DPM”) § 3813.1, Agency avers that a person serving in a MSS position may be terminated at any time. Additionally, Agency also contends that pursuant to DPM § 3813.7, termination from a MSS position is not subject to administrative appeal.⁹ Agency argues that the Court in *Kassem v. Wash. Hosp. Ctr.*, 513 F.3d 251, 254 (D.C. Cir. 2007), noted that “it has long been settled in the District of Columbia that an employer may discharge an at-will employee at any time and for any reason, or for no reason at all.”¹⁰

Agency further cites that Employee’s Petition for Appeal was untimely. It explains that Employee was terminated from her position on October 24, 2025, and she filed the instant Petition for Appeal on January 2, 2026, in violation of D.C. Official Code § 1-606.3(a) which provides that a Petition must be filed within thirty (30) days from the effective date of the action being appealed. Agency argues that the time period may not be waived.¹¹

Agency argues in its Brief on Jurisdiction that Employee’s claim that she was in a permanent Career Service status is contrary to her record. Agency avers that Employee was initially hired into a Term position in 1988. Thereafter, her position was converted to a permanent Career Service

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Agency’s Answer to Petition (February 5, 2026). *See also.* Agency’s Brief on Jurisdiction (March 16, 2026).

¹⁰ *Id.*

¹¹ *Id.*

appointment in 2005. Agency explains that through a competitive process, Employee was offered the position of a MSS Supervisory Motor Vehicle Inspector position in December 2008. Agency states that on January 5, 2009, Employee signed an acceptance letter acknowledging that the position was in MSS and that she understood the conditions of employment. Agency asserts that Employee was still serving as a Supervisory Motor Vehicle Inspector in MSS when she was notified on October 3, 2025, that she was being separated from Agency. Agency maintains that the official record clearly demonstrated that Employee was serving in a MSS position.¹²

Citing to Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001) of the Comprehensive Merit Personnel Act (“CMPA”) and D.C. Code § 1-606.03 (a), Agency asserts that it is well established that OEA does not have jurisdiction in cases involving the termination of a MSS employee. Agency argues that Employee’s reference to 6B DCMR § 3805.1 to bolster her claim that she maintained a permanent position within Career Service is misplaced. Agency notes that this provision refers to employees that are temporarily detailed, promoted, temporarily transferred or reassigned to MSS positions without losing their Career Service status. Agency cites that this was not the case with Employee as she applied for and accepted a MSS position. Agency states that at the time of Employee’s termination, she had been serving in the MSS position of Supervisory Motor Vehicle Inspector since January 2009. Agency maintains that Employee was not in Career Service status at the time of her termination; she did not have career service protections and therefore, Employee does not have rights to appeal her termination.¹³

Agency further asserts that it complied with 6B DCMR § 3813.2. Agency states that the Agency Director issued Employee’s termination notice after consultation with the Director of DCHR. Agency also notes that nothing under this provision required that the authorization document be provided to the terminated employee.¹⁴

Agency argues that Employee’s argument that the filing deadline should be waived because Agency misinformed her that her termination from her MSS position was “neither grievable or appealable” is contingent on her mistaken belief that she was not serving in a MSS position and had the right to appeal her termination.¹⁵ Agency cites that while the Court in *Sium v. Office of State Superintendent of Education*, 218 A.3d 228 (D.C. 2019), held that the thirty (30)-day filing deadline is a claims-processing rule that is subject to equitable tolling, it explained that “whether equitable tolling is appropriate is a fact-specific question that turns on balancing the fairness to both parties.” Agency notes that it has not only objected to the timeliness of Employee’s appeal, but it has established that Employee has no appeal rights to OEA as OEA lacks jurisdiction over this matter.¹⁶

Analysis¹⁷

The threshold issue in this matter is one of jurisdiction. This Office has no authority to

¹² Agency’s Brief on Jurisdiction (March 16, 2026).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Although I may not discuss every aspect of the evidence in the analysis of this case, I have carefully considered the entire record. See *Antelope Coal Co./Rio Tino Energy Americav. Goodin*, 743 F.3d 1331, 1350 (10th Cir. 2014) (citing *Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996)) (“The record must demonstrate that the ALJ considered all of the evidence, but an ALJ is not required to discuss every piece of evidence”).

review issues beyond its jurisdiction.¹⁸ Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding.¹⁹ D.C. Code § 1-606.03 (a) and DPM § 604.1 provide the parameters of OEA’s jurisdiction. Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the Comprehensive Merit Personnel Act (hereinafter “CMPA”), sets forth the law governing this Office. D.C. Official Code § 1-606.03 (“Appeal procedures”) reads in pertinent part as follows:

(a) An employee may appeal [to this Office] a final agency decision affecting 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. . .

D.C. Official Code § 1-609.54 provides further elucidation on the OEA’s statutorily mandated jurisdictional limits in the instant matter. It provides in relevant part that:

Employment-at-will

(a) An appointment to a position in the Management Supervisory Service shall be an at-will appointment. Management Supervisory Service employees shall be given a 15-day notice prior to termination....

In *Grant v. District of Columbia*, the District of Columbia Court of Appeals held that “while the CMPA and its implementing regulations provide procedural protections to Career Service employees who are subject to adverse employment actions (such as notice and hearing rights, and the right to be terminated only for cause), MSS employees are statutorily excluded from the Career Service and thus cannot claim those protections.”²⁰

Based on the preceding statutes, case law, and regulations, it is plainly evident that OEA lacks the jurisdictional authority to review adverse action appeals of MSS employees. Here, while Employee argues that she had a permanent Career Service status at the time of her termination, the record shows otherwise. Pursuant to the record, Employee applied and was offered an MSS position as a Supervisory Motor Vehicle Inspector with Agency in December 2008. On January 5, 2009, Employee accepted the MSS Supervisory Motor Vehicle Inspector position.²¹ Employee held the same Supervisory Motor Vehicle Inspector MSS position when she was terminated in October of 2025. Agency issued a letter of termination to Employee on October 3, 2025, informing her that she would be terminated from Agency effective October 24, 2025. The Court in *Evans v. District of Columbia*, 391 F. Supp. 2d 160 (2005), reasoned that because MSS employees serve “at-will”, they have no property interest in their employment because there is no objective basis for believing that they will continue to be employed indefinitely. The Court provided that the only rights enjoyed by MSS employees are the “right to 15 days’ notice before termination; a separate notice in the event of

¹⁸ See *Banks v. District of Columbia Public School*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

¹⁹ See *Brown v. District of Columbia Public School*, OEA Matter No. 1601-0027-87, *Opinion and Order on Petition for Review* (July 29, 1993); *Jordan v. Department of Human Services*, OEA Matter No. 1601-0110-90, *Opinion and Order on Petition for Review* (January 22, 1993); *Maradi v. District of Columbia Gen. Hosp.*, OEA Matter No. J-0371-94, *Opinion and Order on Petition for Review* (July 7, 1995).

²⁰ Citations omitted. 908 A.2d 1173, 1178 (D.C. 2006).

²¹ See Agency’s Brief on Jurisdiction, *supra*, at TAB 3.

termination for disciplinary reasons describing the reason for termination; and if the employee requests in writing, a final administrative decision on the issue of severance pay by the personnel authority.”²² Applying this reasoning to the present case, I find that Agency clearly fulfilled its obligation by providing Employee with a written notice of her impending termination on October 3, 2025, providing Employee with more than a fifteen-day (15-day) notice prior to termination and in compliance with 6B DCMR § 3813.1.

Additionally, based on the record, I find that Employee was not temporarily detailed, transferred, promoted or reassigned to her current MSS position. Rather, I find that Employee’s appointment to the MSS Supervisory Motor Vehicle Inspector position was a permanent position for which she applied to, was offered and she accepted the MSS position approximately 16 years before her termination. Consequently, I conclude that since Employee’s last position of record was obtained through an MSS appointment, I cannot adjudicate her appeal and it therefore must be dismissed for lack of jurisdiction.²³ In addition, because I find that Employee had an MSS appointment at the time of her termination, and that OEA does not have jurisdiction over an MSS appointment, I also conclude that the timeliness issue is now **MOOT**.

Employee has the burden of proof on issues of jurisdiction, pursuant to OEA Rule 631.2. Employee must meet this burden by a “preponderance of the evidence” which is defined in OEA Rule 631.1, *id*, as that “degree of relevant evidence, which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.” Based on the foregoing, I conclude that Employee has not met the required burden of proof, and that this matter must be dismissed for lack of jurisdiction. Consequently, I am unable to address the factual merits, if any, of this matter.

ORDER

It is hereby **ORDERED** that Agency’s Motion to Dismiss is **GRANTED** and the Petition for Appeal is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

/s/ *Monica N. Dohnji*

MONICA DOHNJI, Esq.
Senior Administrative Judge

²² *Evans v. District of Columbia*, p.166 (2005).

²³ Agency asserts that Employee’s termination letter was issued by Agency’s Director and in consultation with the Director of DCHR, in compliance with 6B DCMR § 3813.2, which provides that:

No termination action shall be initiated under this chapter unless first authorized by the agency head (or designee) and the Director, D.C. Department of Human Resources (DCHR), or independent personnel authority, as applicable; except that a termination of a Management Supervisory Service employee in the DCHR shall be first authorized by the Director, DCHR (or designee), and the Chief of Staff for the Mayor.