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**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
PEGGY PENDERGAST	)	OEA Matter No. 2401-0057-05
Employee	)	
	)	Date of Issuance: December 8, 2005
v.	)	
	)	Daryl J. Hollis, Esq.
	)	Senior Administrative Judge
D.C. TAXICAB COMMISSION	)	
Agency	)	

Clifford Lowery, Employee Representative  
Kimberly Lewis, Esq., Agency Representative

**INITIAL DECISION**

INTRODUCTION

On June 6, 2005, Employee, a Dispute Resolution Specialist, DS-11 in the Career Service, filed a petition for appeal from Agency's action separating her from Government service pursuant to a reduction-in-force (RIF).

This matter was assigned to me on November 1, 2005. I conducted a Prehearing Conference on December 6, 2005. Since this case could be decided on the basis of the documents of record, no evidentiary Hearing was held. The record is closed.

## JURISDICTION

As will be detailed below, the Office lacks jurisdiction over this matter.

## ISSUE

Whether this matter must be dismissed for lack of jurisdiction.

## UNDISPUTED FACTS

The salient facts in this case are undisputed:

1. By Official Notice dated May 6, 2005, Agency advised Employee that her position was being abolished as a result of a RIF and that consequently she would be separated from Government service effective June 6, 2005.
2. At the time of her separation, Employee was the only person in her competitive level – Dispute Resolution Specialist, DS-11.
3. In lieu of separation, Employee elected to take a Discontinued Service Retirement. The effective date of Employee’s retirement was June 6, 2005.

## ANALYSIS AND CONCLUSIONS


It is well-settled that this Office lacks jurisdiction over voluntary retirements. *See, e.g., Maddox v. D.C. Public Schools*, OEA Matter No. 2401-0124-04 (June 22, 2005), \_\_ D.C. Reg. \_\_\_\_ ( ); *Williamson v. D.C. Public Schools*, OEA Matter No. 2401-0111-04 (May 11, 2005), \_\_ D.C. Reg. \_\_\_\_ ( ); *Bernard v. Department of Mental Health*, OEA Matter No. 2401-0094-03 (March 14, 2005), \_\_ D.C. Reg. \_\_\_\_ ( ). This is so even when, as here, the retirement was “elected under difficult circumstances.” *Maddox, supra*; *Dunham v. D.C. Public Schools*, OEA Matter No. 2401-0291-96 (March 9, 2000), \_\_ D.C. Reg. \_\_\_\_ ( ). *See also Christie v. United States*, 518 F.2d 584 (Ct. Cl. 1975).

Here, in lieu of being separated as a result of the RIF, Employee elected to take a discontinued service retirement. Based on this Office's long-established precedent, I conclude that this matter must be dismissed for lack of jurisdiction.<sup>1</sup>

ORDER

It is hereby ORDERED that this matter is DISMISSED.

FOR THE OFFICE:

  
DARYL J. HOLLIS, Esq.  
Senior Administrative Judge

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<sup>1</sup> Assuming *arguendo* that Employee had not retired, then I note the following: Although this Office has jurisdiction over RIF appeals, there are only two issues that a separated employee may raise here: 1) that she was not afforded one round of lateral competition in her competitive level; and 2) that she was not given 30 days notice prior to the effective date of her RIF. Here, Employee received the requisite 30 days notice. As to the "lateral competition" requirement, this Office has previously decided that in cases involving a single-person competitive level that was abolished pursuant to a RIF, "the statutory provision affording [the employee] one round of lateral competition was inapplicable." *Cabaniss v. Department of Consumer & Regulatory Affairs*, OEA Matter No. 2401-0156-99 (January 30, 2003), \_ D.C. Reg. \_\_ ( ); *Mills v. D.C. Public Schools*, OEA Matter No. 2401-0109-02 (March 20, 2003), \_ D.C. Reg. \_\_ ( ). Since Employee was in a single-person competitive level and since she received the required notice, I would have upheld Agency's action separating her from service as a result of the RIF.