

Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and the Office of Employee Appeals' website. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
CARLENE THOMPSON,)	
Employee)	OEA Matter No. 2401-0122-14
)	
v.)	
)	Date of Issuance: September 13, 2016
D.C. PUBLIC SCHOOLS,)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Carlene Thompson (“Employee”) worked as an Administrative Aide with D.C. Public Schools (“Agency”). On May 19, 2014, Employee received a notice from Agency that she would be removed from her position due to a Reduction-in-Force (“RIF”). The effective date of Employee’s removal was August 8, 2014.¹

On September 5, 2014, Employee filed her Petition for Appeal. She explained that she performed the duties of five positions and was given her supervisor’s responsibilities to open and staff the school. Therefore, Employee requested that she be reinstated with back pay and

¹ *Agency’s Answer to Petition*, p. 35-36 (October 8, 2014).

benefits.²

Agency filed its answer to Employee's Petition for Appeal on October 8, 2014. It argued that Employee's removal was conducted in accordance with 5-E D.C. Municipal Regulations ("DCMR") Chapter 15 and the laws of the District of Columbia. Agency stated that it provided Employee with more than the required thirty days' notice. Moreover, it asserted that Employee was the only Administrative Aide at Filmore Arts Center. Therefore, it requested that an evidentiary hearing be held.³

The OEA Administrative Judge ("AJ") issued her Initial Decision on January 20, 2015. She held that Employee was not entitled to one round of lateral competition since she was in a single-person competitive level. She reasoned that because the entire competitive level was eliminated, Agency was not required to rank or rate Employee in accordance with D.C. Official Code § 1-624.08(e). Additionally, the AJ ruled that Agency properly provided Employee with thirty days' notice prior to the effective date of the RIF action. Therefore, she upheld Agency's decision to remove Employee pursuant to the RIF.⁴

On July 15, 2015, Employee filed a Petition for Review. She argues that Agency tampered with the Notification of Personnel Action form by revising the original document and making adjustments to her salary. Employee explains that although her thirty-day period to appeal had expired, she felt obligated to report Agency's unethical actions.⁵

In accordance with OEA Rule 633.1 "any party to the proceeding may serve and file a petition for review of an initial decision with the Board within thirty-five (35) calendar days of issuance of the initial decision." Furthermore, D.C. Official Code § 1-606.03(c) provides that ". .

² *Petition for Appeal*, p. 2-7 (September 5, 2014).

³ *Agency's Answer to Petition*, p. 1-5 (October 8, 2014).

⁴ *Initial Decision*, p. 1-7 (January 20, 2015).

⁵ *Petition for Review*, p. 1-2 (July 15, 2015).

. the initial decision . . . shall become final 35 days after issuance, unless a party files a petition for review of the initial decision with the Office within the 35-day filing period.” The D.C. Court of Appeals held in *District of Columbia Public Employee Relations Board v. District of Columbia Metropolitan Police Department*, 593 A.2d 641 (D.C. 1991), that “the time limits for filing appeals with administrative adjudicative agencies, as with courts, are mandatory and jurisdictional matters.”⁶ Therefore, OEA has consistently held that the Petition for Review filing requirement is mandatory in nature.⁷

In the current case, the Initial Decision was issued on January 20, 2015. Therefore, Employee had thirty-five days after that date to file an appeal with the OEA Board. As stated in her Petition for Review, Employee was aware that she was filing her petition past the thirty-five day deadline. Because the deadline is mandatory, this Board is unable to address any issues raised by Employee in her Petition for Review. Therefore, the Petition for Review is denied.

⁶ Also see *District of Columbia Public Employee Relations Board v. District of Columbia Metropolitan Police Department*, 593 A.2d 641, 643 (D.C. 1991) (citing *Woodley Park Community Association v. District of Columbia Board of Zoning Adjustment*, 490 A.2d 628, 635 (D.C.1985); *Thomas v. District of Columbia Department of Employment Services*, 490 A.2d 1162, 1164 (D.C.1985); *Gosch v. District of Columbia Department of Employment Services*, 484 A.2d 956, 958 (D.C.1984); and *Goto v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 917, 923 (D.C.1980)).

⁷ *Alfred Gurley v. D.C. Public Schools*, OEA Matter No. 1601-0008-05, *Opinion and Order on Petition for Review* (April 14, 2008), *James Davis v. Department of Human Services*, OEA Matter No. 1601-0091-02, *Opinion and Order on Petition for Review* (October 18, 2006); *Damond Smith v. Office of the Chief Financial Officer*, OEA Matter No. J-0063-09, *Opinion and Order on Petition for Review* (December 6, 2010); *Jason Codling v. Office of the Chief Technology Officer*, OEA Matter No. J-0151-09, *Opinion and Order on Petition for Review* (December 6, 2010); *Dametrious McKenny v. D.C. Public Schools*, OEA Matter No. 1601-0207-12, *Opinion and Order on Petition for Review* (February 16, 2016); *Carolyn Reynolds v. D.C. Public Schools*, OEA Matter No. 1601-0133-11, *Opinion and Order on Petition for Review* (May 10, 2016).

ORDER

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

FOR THE BOARD:

Sheree L. Price, Interim Chair

Vera M. Abbott

A. Gilbert Douglass

Patricia Hobson Wilson

This decision of the Office of Employee Appeals shall become the final decision 5 days after the issuance date of this order. 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.