

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
VERONICA MITCHELL-ROSS)	
Employee)	
)	OEA Matter No.: 1601-0106-05
v.)	
)	Date of Issuance: May 6, 2009
DISTRICT OF COLUMBIA PUBLIC)	
SCHOOLS (DOT))	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Veronica Mitchell-Ross (“Employee”) worked as a Logistics Specialist for the District of Columbia Public Schools, Division of Transportation (“Agency”). On April 21, 2005, Agency removed her from that position for the causes of incompetence, neglect of duty, and failure to obey orders. On June 28, 2005 Employee filed a Petition for Appeal with the Office of Employee Appeals.

On January 24, 2006 Employee informed the Administrative Judge that she wished to voluntarily withdraw her appeal. The Administrative Judge accepted Employee’s statement and issued an Initial Decision on that same date dismissing her appeal. A notice of appeal rights was attached to the decision and the certificate of

service indicated that the decision was mailed to Employee's address of record and was not returned as undeliverable to the Office.

Employee filed a Petition for Review on July 7, 2006. The Office received the petition on July 11, 2006. In her petition Employee states that she "never received written confirmation that [her appeal] has been closed and also of my rights to appeal this decision. The only documentation that I received was this statement for another case."¹

We cannot accept the claims that Employee makes in her Petition for Review. According to the Office's transmittal log, the Initial Decision was mailed to Employee on January 24, 2006. Moreover, as noted above, the decision was sent to Employee's address of record and was not returned to this Office. Also, we have no reason to believe that the notice of appeal rights was not attached as Employee claims. Lastly, Employee does not dispute the basis upon which the Initial Decision was issued, i.e. that she voluntarily withdrew her appeal.

Employee filed her Petition for Review well after the filing deadline. According to D.C. Official Code § 1-606.03(c) and OEA Rule 633.1, an Initial Decision becomes final thirty-five (35) calendar days after issuance. Therefore, a party wishing to file a Petition for Review must do so before the Initial Decision becomes final (OEA Rule 633.2). Employee filed her petition 168 days after the Initial Decision was issued. The District of Columbia Court of Appeals has held that the time limit for filing an appeal with an administrative adjudicatory agency, such as OEA, is mandatory and jurisdictional in nature.² While Employee may have received the document she attached to her petition, we cannot accept her claim that she did not receive the Initial Decision and the

¹ *Petition for Review.*

² *D.C. Pub. Employee Relations Board v. D.C. Metro. Police Dep't*, 593 A.2d 641, 643 (D.C. 1991) and *Thomas v. D.C. Dep't of Employment Services*, 490 A.2d 1162, 1164 (D.C. 1985).

attached notice of appeal rights. As a result of Employee's late filing, we will not accept her Petition for Review. According, Employee's Petition for Review is denied.

ORDER

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

FOR THE BOARD:

Sherri Beatty-Arthur, Chair

Barbara D. Morgan

Richard F. Johns

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.