INITIAL DECISION

INTRODUCTION

On July 2, 2009, Employee filed a petition for appeal against the Office of Chief Technology Officer ("OCTO" or "Agency"), challenging Agency decision to terminate his employment during his probationary period. Employee seeks reinstatement to the IT Project Manager position that he obtained on May 12, 2008. Christopher Willey, Deputy CTO of Agency, issued a letter to Employee, dated December 12, 2008, which advised him that, effective January 2, 2009, he was terminated from employment. The letter further advised him that, pursuant to the provisions of the D.C. Comprehensive Merit Personnel Act of 1978, (the “Act”), codified at D.C. Official Code, § 1-601.1, et seq., there are no administrative appeal provisions for employees who are terminated during the probationary period. This matter was assigned to me on November 30, 2009. Since there were no material facts in dispute, no proceedings were held. I reviewed Employee’s Petition for Appeal and the applicable law and governing personnel regulations. The record is now closed.

JURISDICTION

Pursuant to the legal parameters of D.C. Official Code § 1-606.03 (2001), the Office lacks jurisdiction over this appeal.

ISSUE
Whether the Employee met his burden of proof that the Office has jurisdiction over this appeal.

FINDING OF FACTS, LEGAL ANALYSIS AND CONCLUSIONS

Employee was appointed by OCTO on May 12, 2008, to serve as an Information Technology Project Manager, DS-2210-15, and served in that capacity until terminated, effective January 2, 2009. The position that Employee held mandates a probationary period of one year. He encumbered the position in question for about seven months, and, therefore, was still a probationary employee at the time of his separation.

_Probationary Employees_

Effective October 21, 1998, and except as otherwise provided by the Act, pursuant to the _D.C. Official Code_, §1-606.03 and OEA Rule 604.2, a D.C. government employee may appeal a final agency decision affecting: (a) A performance rating which results in removal of the employee; (b) An adverse action for cause that results in removal, reduction in grade, or suspension for ten (10) days or more; or, (c) A reduction in force.

Effective June 9, 2000, the Council of the District of Columbia adopted amended regulations for the updated implementation of the Act and, at the outset of the new regulations, provided at Chapter 16, § 1600.1(b), that the newly adopted regulations apply to each employee of the District government in the Career Service, who has completed a probationary period.¹

Further, the District Personnel Manual at § 813.2, provides as follows:

An employee who is appointed to a Career Appointment (Probational), including initial appointment with the District government in a supervisory position, shall be required to serve a probationary period of one (1) year, except in the case of an individual appointed on or after the effective date of this provision to an entry-level police officer position in the Metropolitan Police Department or an entry-level correctional officer position in the Department of Corrections or Department of Youth Rehabilitation Services, who shall be required to serve a probationary period of eighteen (18) months.

¹ See also, _D.C. Official Code_ §1-608.01(5), which reflects that attaining status as a permanent Career Service employee requires completion of a probationary period of at least one year.

Here, Employee’s one-year probationary period began on May 12, 2008, and would have ended on May 11, 2009. However, Employee was separated from service on January 2, 2009, within the probationary period. Regardless of any other component or other potential validity of his claim, I conclude, therefore, that this Office has no jurisdiction over this appeal, and that it must be dismissed.

ORDER

It is hereby ORDERED that this matter is DISMISSED.

FOR THE OFFICE:

ROHULAMIN QUANDER Esq.
Senior Administrative Judge