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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE ¹ ,	)	OEA Matter No. J-0041-26
	)	
v.	)	Date of Issuance: August 12, 2026
	)	
D.C. DEPARTMENT OF	)	MONICA DOHNJI, Esq.
FOR-HIRE VEHICLES,	)	Senior Administrative Judge
Agency	)	
	)	
Employee, <i>Pro Se</i>		
Zita Orji, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On March 13, 2026, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) contesting the D.C. Department of For-Hire Vehicles’ (“DFHV” or “Agency”) decision not to rescind her resignation and reinstate her to her previous position of record. OEA issued a Request for Agency Answer to Petition for Appeal on March 13, 2026. Thereafter, on April 9, 2026, Agency filed its Answer to Petition for Appeal citing therein that OEA does not have jurisdiction over voluntary resignations and that its decision not to reinstate Employee does not constitute an adverse action within OEA’s jurisdiction.

This matter was assigned to the undersigned Senior Administrative Judge on April 13, 2026. Subsequently, the undersigned issued an Order on April 30, 2026, requiring Employee to address the jurisdiction issue raised by Agency in its April 13, 2026, submissions. Employee’s brief on jurisdiction was due on or before May 18, 2026, and Agency had the option to file a reply brief on or before June 2, 2026. While Employee filed her brief as required, on May 28, 2026, Agency filed a Motion for Extension of Time seeking a 30-day extension of the June 2, 2026, sur-reply brief deadline. The undersigned issued an Order on June 8, 2026, granting Agency’s motion and setting the deadline to submit Agency’s optional sur-reply brief to July 2, 2026. Agency submitted its brief as required. After considering the parties’ arguments as

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

presented in their submissions to this Office, I have decided that an Evidentiary Hearing is not required. 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.²

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 LAW³

Employee worked for Agency as a Supervisory Human Resources (“HR”) Specialist effective August 4, 2019. Employee’s position was classified as Management Supervisory Service (“MSS”) position. On October 3, 2024, Agency’s Chief of Staff, Dory Peters (“Mr. Peters”) assigned Employee to approve another employee’s timesheet in PeopleSoft. On October 23, 2025, Employee met with Mr. Peters regarding discrepancies with the other employee’s timekeeping. Employee’s concerns were escalated to Agency’s director and eventually to the Assistant City Administrator, Christopher Rodriguez (“Mr. Rodriguez”), who directed Agency to continue approving the employee’s timesheets.⁴ Employee did not request that the task be

² OEA Rule § 699.1.

³ 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 America v. 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”).

⁴ See Agency Answer (April 9, 2026). See also Agency’s Reply (July 2, 2026).

reassigned to another employee. Instead, on February 2, 2026, Employee informed Mr. Peters via email that “I am writing to formally share my decision to resign from my position as the HR supervisor with DC Department of For Hire Vehicles – effective February 13, 2026.”⁵ Thereafter, on February 5, 2026, Employee provided another written notice to Agency confirming her resignation. Employee cited in the February 5, 2026, notice that she was resigning due to “ongoing unethical practices and intolerable working environment.”⁶ On March 9, 2026, Employee emailed Mr. Peters seeking reinstatement to her former Supervisory HR Specialist position. Mr. Peters responded to Employee’s email on March 10, 2026, informing her that reinstatement was not an option because her previous position was an MSS position.⁷

Employee’s Position

Employee asserts that OEA has jurisdiction over this matter because her resignation was not voluntary. Employee cites that she was “constructively discharged after being subjected to intolerable working conditions arising from her cooperation in a Board of Ethics and Government Accountability (BEGA) investigation and [her] refusal to participate in improper timekeeping practices.”⁸ Employee explains that “constructive discharge exists where working conditions become so intolerable that a reasonable person would feel compelled to resign.”⁹ Employee asserts that dismissing her appeal at this state would be premature as she has alleged sufficient facts to establish a basis for OEA’s jurisdiction.¹⁰

Agency’s Position

Agency argues that Employee’s separation from Agency was a result of her voluntary resignation and not an Agency initiated adverse action subject to OEA’s jurisdiction.¹¹ Agency asserts that OEA’s jurisdiction is strictly limited to a final decision involving (1) a performance rating which results in removal of the employee; (2) an adverse action for cause which results in removal; (3) a reduction in grade; (4) a suspension for ten (10) days or more; (5) a reduction-in-force; or (6) a placement on enforced leave for ten (10) days or more, and none of these appealable actions occurred in the current matter.¹² Agency explains that the record clearly demonstrates that Employee voluntarily resigned from her position by submitting a written resignation on February 2, 2026, with an effective date of February 13, 2026. Agency further cites that the resignation was initiated solely by Employee and not the result of any final Agency decision or disciplinary action. Agency maintains that because Employee did not experience an appealable adverse action as defined by D.C. Official Code § 1-606.03 and 6-B DCMR § 604.1, OEA lacks jurisdiction over this matter.¹³

⁵ Agency Answer at Tab 2.

⁶ *Id.*

⁷ *Id.* at Tab 3.

⁸ Employee’s Response to Order to Show Cause Regarding Jurisdiction (May 11, 2026).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Agency Answer (April 9, 2026). See also. Agency’s Reply (July 2, 2026).

¹² *Id.*

¹³ *Id.*

Agency further contends that Employee has not established that her resignation constituted a constructive removal because there is no evidence of coercion, misrepresentation, or an objectively intolerable working condition created by Agency. Agency denies that it coerced Employee into resigning, issued any ultimatum, or otherwise pressured her to separate from service. Agency cites that Employee has not demonstrated that she was subjected to objectively intolerable working conditions. Agency states that such a showing requires conditions so severe that a reasonable person would have felt compelled to resign, not merely ordinary workplace frustrations. Agency maintains that there were no changes to Employee's duties, work environment or employment conditions that would rise to that level. Agency notes that Employee performed her duties in a full-time telework capacity, thereby undermining any claim that she was subjected to a hostile or oppressive work environment.¹⁴

Additionally, Agency argues that Employee's subjective belief that she was subjected to intolerable working conditions when she refused to participate in 'unethical timekeeping practices' is misplaced and unsupported by the record. It avers that Employee has failed to demonstrate that 'unethical timekeeping practices' existed prior to her resignation or that Agency forced her to participate in the alleged 'improper practices.' Agency explains that the BEGA's investigation into the timesheet matter had not concluded at the time of Employee's resignation and remains ongoing, with no findings or determination of wrongdoing issued to date. Agency asserts that "even accepting Employee's assertions as true, being instructed to perform duties she believed to be improper, without more, does not constitute coercion, duress, or an ultimatum sufficient to render her resignation involuntary." Agency concludes that "because Employee has failed to present any evidence of coercion, misrepresentation, or intolerable working conditions, she cannot establish that her resignation was involuntary. Accordingly, Employee has not demonstrated a constructive removal, and that OEA lacks jurisdiction over this appeal."¹⁵

Agency also asserts that its decision not to reinstate Employee does not constitute an adverse action within the jurisdiction of OEA, as it is a discretionary employment determination rather than a removal or other appealable action. Agency reiterates that OEA's jurisdiction is limited to appeals from final agency decisions involving specific adverse actions, including removal, suspension of ten (10) days or more, reduction in grade, reduction-in-force, or placement on enforced leave. Agency explains that "a decision not to reinstate a former employee following a voluntary resignation does not constitute any of the enumerated adverse actions within OEA's jurisdiction. While reinstatement may be available in certain contexts as an equitable remedy, it is not automatic or guaranteed." According to Agency, "Employee voluntarily resigned from her position effective February 13, 2026, thereby ending her employment relationship with Agency. Her subsequent request, submitted nearly one month later, sought reemployment, not the reversal of an adverse action. Agency's determination that Employee was not eligible for reinstatement therefore does not constitute a removal, suspension, reduction in grade, or any other appealable action under the governing statute and regulations. OEA has consistently held that it lacks jurisdiction over claims that do not involve an appealable

¹⁴ *Id.*

¹⁵ *Id.*

adverse action and has no authority to review discretionary personnel determinations of this nature.”¹⁶

Analysis

The threshold issue in this matter is one of jurisdiction. This Office’s jurisdiction is conferred upon it by law and was initially established by the District of Columbia Comprehensive Merit Personnel Act of 1978 (“CMPA”), D.C. Official Code §1-601-01, *et seq.* (2001). It was amended by the Omnibus Personnel Reform Amendment Act of 1998 (“OPRAA”), D.C. Law 12-124, which took effect on October 21, 1998. Both the CMPA and OPRAA confer jurisdiction on this Office to hear appeals, with some exceptions. According to 6-B of the District of Columbia Municipal Regulation (“DCMR”) § 604.1¹⁷, this Office has jurisdiction in matters involving District government employees appealing a final agency decision affecting:

- (a) A performance rating which results in removal of the employee;
- (b) An adverse action for cause which results in removal;
- (c) A reduction in grade;
- (d) A suspension for ten (10) days or more;
- (e) A reduction-in-force; or
- (f) A placement on enforced leave for ten (10) days or more.

Moreover, DPM § 631.2 provides that “. . . for appeals filed under § 604.1, the employee shall have the burden of proof as to issues of jurisdiction.” This Office has no authority to review issues beyond its jurisdiction.¹⁸

Resignation

In accordance with DPM Instruction Nos. 8-53, 9-25, 36-3 and 38-12, resignations are considered to be “voluntary separations.” These separations are “initiated by the employee, not the employing agency or personal authority.” Further, these instructions provide that a separation is deemed to be voluntary if the employee is free to choose, understands the transaction, is given a reasonable time to make his or her choice and is allowed to set the effective date of the action.¹⁹ Further, in accordance with the D.C. Court of Appeals, the OEA Board has held that the “test to determine voluntariness is an objective one that, considering all the circumstances, the employee was prevented from exercising a reasonably free and informed choice.”²⁰ Citing to *District of Columbia Metropolitan Police Department v. Stanley*, the OEA Board further noted that, as a general principle, an employee’s decision to resign is considered voluntary “if the

¹⁶ *Id.*

¹⁷ See also, Chapter 6, §604.1 of the District Personnel Manual (“DPM”) and OEA Rules.

¹⁸ See. *Employee v. D.C. Fire & Medical Emergency Services*, OEA Matter No. 1601-0080-24 (September 24, 2024); *Employee v. Department of Public Works*, OEA Matter No. J-0076-25, *Opinion and Order on Petition for Review* (June 4, 2026).

¹⁹ See. DPM Instructions Nos. 8-53, 9-25, 36-3 and 38-12 (March 26, 2008).

²⁰ *Morris Yarborough v. Department of Public Works*, OEA Matter No. J-0022-19, *Opinion and Order on Petition for Review* (January 14, 2020), citing *District of Columbia Metropolitan Police Department v. Stanley*, 942 A.2d 1172, 1175-1176 (2008).

employee is free to choose, understands the transaction, is given a reasonable time to make his choice, and is permitted to set the effective date. With meaningful freedom of choice as the touchstone, courts have recognized that an employee's resignation may be involuntary if it is induced by the employer's application of duress or coercion, time pressure, or the misrepresentation or withholding of material information."²¹ In the instant matter, Employee does not dispute that she resigned from her position. Employee provided a resignation notice to Agency via email on February 2, 2026, and again on February 5, 2026. This notice provided an effective date of her resignation as February 13, 2026, and was submitted in writing to Agency's Chief of Staff, Mr. Peters. The resignation notices indicated that Employee understood and choose to take the action.

Approximately one (1) month later, on March 9, 2026, Employee emailed Mr. Peters notifying him of her intention to rescind her resignation. Ultimately, Employee's request to rescind her resignation was denied. Employee argues that her resignation was not voluntary because she was constructively discharged after being subjected to intolerable working conditions arising from her cooperation in a BEGA investigation and her refusal to participate in improper timekeeping practices. The question of whether a resignation is voluntary or involuntary has been considered in several cases before this Office.²² When determining whether a resignation was voluntary or involuntary, this Office aligns with the seminal case in the federal sector on this issue, *Christie v. United States*.²³ In *Christie*, the plaintiff claimed that she was wrongfully separated from the government by means of a coerced resignation. The U.S. Court of Claims held that, as a matter of law, the plaintiff's resignation was voluntary. Christie was a Veteran's preference employee of the U.S. Navy Department. She was issued an advance notice of proposed removal for cause for attempting to inflict bodily injury on her supervisor. She denied the charge. The agency issued a final decision to remove Christie but allowed her an opportunity to accept a discontinued service retirement instead of being fired. Christie resigned and accepted the retirement benefit. Then, she filed an appeal with the U.S. Civil Service Commission (CSC). The CSC dismissed the appeal for lack of jurisdiction and the plaintiff appealed to the U.S. Court of Claims. In finding that the resignation was voluntary, the Court of Claims held that employee resignations are presumed to be voluntary.²⁴ The Court further stated:

"This presumption will prevail unless plaintiff comes forward with sufficient evidence to establish that the resignation was involuntarily extracted. Plaintiff had the opportunity to rebut this presumption before the CSC.... Upon review of the facts as they appear in the record before the CSC, it is clear the plaintiff has failed to show that her resignation was obtained by external coercion or duress. Duress is not measured by the employee's subjective evaluation of the situation. Rather, the test is an objective one. While it is possible plaintiff, herself, perceived no

²¹ *Id.*

²² *See., e.g., Alston v. D.C. Office of Department of Contracting and Procurement*, OEA Matter No. 1601-0010-09 (May 5, 2009); *Moore v. Office of the State Superintendent of Education*, OEA Matter No. J-0114-14 Initial Decision (September 25, 2014).

²³ *Christie v. United States*, 518 F.2d. 584 (Ct. Cl. 1975).

²⁴ *Alston v. D.C. Office of Department of Contracting and Procurement*, OEA Matter No. 1601-0010-09 Initial Decision (May 5, 2009).

viable alternative but to tender her resignation, the record evidence supports CSC's finding that plaintiff chose to resign and accept discontinued service retirement rather than challenge the validity of her proposed discharge for cause. The fact remains, plaintiff had a choice. She could stand pat and fight. She chose not to. Merely because plaintiff was faced with an inherently unpleasant situation in that her choice was arguably limited to two unpleasant alternatives does not obviate the involuntariness of her resignation. This Court has repeatedly upheld the voluntariness of resignations where they were submitted to avoid threatened termination for cause. Of course, the threatened termination must be for good cause in order to precipitate a binding, voluntary resignation. But this "good cause" requirement is met as long as plaintiff fails to show that the agency knew or believed that the proposed termination could not be substantiated."²⁵

"It is incumbent on the employee; therefore, to present sufficient evidence to prove that his or her resignation was involuntary."²⁶ Additionally, the Court in *Stanley, supra*, held that "the fact that an employee is faced with an inherently unpleasant situation or that his choice is limited to two unpleasant alternatives is not enough by itself to render the employee's choice involuntary." Therefore, in accordance with DPM Instructions and case law, OEA would only retain jurisdiction over a resignation if the aforementioned issues regarding coercion, duress or constructive discharge had occurred.

In the instant matter, Employee asserts that she was constructively discharged after being subjected to intolerable working conditions arising from her cooperation in a BEGA investigation and her refusal to participate in improper timekeeping practices. However, Employee has not otherwise provided evidence of how her resignation was a constructive discharge, such as how and what steps Agency took to subject her to intolerable working conditions. Further, Employee has failed to provide evidence that her resignation was coerced or a result of duress. As a result, I find that Employee's resignation was voluntary and this Office has consistently held that it lacks jurisdiction over voluntary resignations.²⁷

Request for Reinstatement

As was previously noted, approximately one (1) month after Employee informed Agency of her intent to resign and the effective date of her resignation, Employee requested "consideration for reinstatement to the position of Human Resources Supervisor, with the DFHV." Agency asserts that its decision not to reinstate Employee does not constitute an adverse action within the jurisdiction of OEA, as it is a discretionary employment determination rather

²⁵ *Christie v. United States*, 518 F.2d. 584, 587-588 (Ct. Cl. 1975).

²⁶ *Moore v. Office of the State Superintendent of Education*, OEA Matter No. J-0114-14 Initial Decision (September 25, 2014).

²⁷ *Evans v. Department of Youth Rehabilitation Services*, OEA Matter No. 1601-0055-11, *Opinion and Order on Petition for Review* (December 10, 2014).

than a removal or other appealable action. Agency restates that OEA's jurisdiction is limited to appeals from final agency decisions involving specific adverse actions, including removal, suspension of ten (10) days or more, reduction in grade, reduction-in-force, or placement on enforced leave. Agency explains that a decision not to reinstate a former employee following a voluntary resignation does not constitute any of the enumerated adverse actions within OEA's jurisdiction. I must agree with Agency. Because I have found that Employee's resignation was voluntary, and Employee was not subjected to an adverse action for which she prevailed, I conclude that OEA does not have jurisdiction over Employee's request for reinstatement.

Mr. Peters, in his March 10, 2026, email to Employee cited that "I wanted to reach out to let you know that we've carefully reviewed your request for reinstatement. After discussing your situation with DCHR, we were informed that reinstatement is unfortunately not an option for MSS positions." Accordingly, I find that Agency had the discretion to reinstate Employee after she voluntarily resigned, and it chose not to do so.²⁸

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 Employee's Petition for Appeal is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

/s/ Monica N. Dohnji

MONICA DOHNJI, Esq.
Senior Administrative Judge

²⁸ Assuming *arguendo* that Employee's resignation was a result of a constructive discharge, I find that this Office would still not have jurisdiction over Employee because her position was an MSS position. This Office had consistently held that it lacked jurisdiction over MSS employee. In *Grant v. District of Columbia*, 908 A.2d 1173, 1178 (D.C. 2006), 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." Additionally, 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. Based on the foregoing, I conclude that since Employee's last position of record was an MSS position, I cannot adjudicate her appeal, and it therefore must be dismissed for lack of jurisdiction.