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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
STEVEN GALLMON	)	OEA Matter No. 2401-0213-04
Employee	)	
	)	Date of Issuance: October 13, 2005
v.	)	
	)	Muriel A. Aikens-Arnold
	)	Administrative Judge
DEPARTMENT OF EMPLOYMENT	)	
SERVICES	)	
Agency	)	

Steven Gallmon, *Pro se*  
Thelma Chichester Brown, Esq., Assistant Attorney General

INITIAL DECISION

INTRODUCTION AND STATEMENT OF FACTS

On August 18, 2004, Employee, a Computer Clerk, filed a Petition for Appeal from Agency's action to separate him from service effective September 30, 2004 as a result of a reduction-in-force (RIF). Agency was notified by this Office regarding this appeal on September 10, 2004 and directed to respond by October 12, 2004. Agency filed its response on October 7, 2004.

The matter was assigned to this Judge on June 28, 2005. On August 8, 2005, an Order Convening a Prehearing Conference was issued scheduling said conference on

August 23, 2005. The parties appeared for said conference as scheduled. As there were no material facts in dispute, no hearing was held.<sup>1</sup> Accordingly, the record is closed.

### JURISDICTION

For purposes of dismissing this appeal, the Office has jurisdiction pursuant to D.C. Official Code §1-606.03 (2001).

### ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

### POSITIONS OF THE PARTIES

During the prehearing conference, Employee argued that Agency should have notified him regarding the RIF earlier than August 16, 2004, that he did not receive that letter, and that Agency should have placed him somewhere else.<sup>2</sup> However, Employee conceded that he was placed on administrative leave from August 16, 2004 through September 30, 2004 and that he had provided this Office with a copy of his separation letter on August 20, 2004.<sup>3</sup> Agency asserted that Employee's separation was consistent with applicable RIF regulations and that his appeal lacks merit and should be denied.

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<sup>1</sup> This Judge advised Employee that this Office is not authorized to address all aspects of a RIF; and that our jurisdiction is limited to two provisions of Chapter 24 of the D.C. Official Code, §1-624.08 (d) and (e); ie., whether the employee was afforded one round of lateral competition in his or her competitive level and/or whether the employee was given written notice at least 30 days before the effective date of his or her separation.

<sup>2</sup> The termination notice in the record reflects that two (2) witnesses signed that letter acknowledging Employee's receipt thereof and his refusal to sign the receipt.

<sup>3</sup> On 8/19/05, Senior Administrative Judge Daryl Hollis issued an Order to Employee to Submit the Final Agency Decision.

ANALYSIS AND CONCLUSIONS

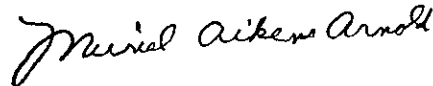
Employee's allegations have no merit as the record reflects: 1) that even though he refused to sign for receipt of the separation notice, two (2) witnesses attested to that fact and that he did receive said notice; 2) that his representation before the Judge that he did not receive written notice of the RIF conflicts with the facts in the record and he did not dispute that witnesses acknowledged his actions; 3) that he received the required 30-days advance notice of his separation through the RIF procedures; and 4) he did not raise or present evidence that he was entitled to but did not receive one round of lateral competition in his competitive level. Moreover, by arguing that he should have received notice earlier than August 16, 2004, Employee admits that he was so notified.

Therefore, based on the record, this Judge concludes that this Office does not have jurisdiction in this matter and that this appeal should be dismissed.

ORDER

It is hereby ORDERED that this matter is DISMISSED  
for lack of jurisdiction.

FOR THE OFFICE:



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MURIEL A. AIKENS-ARNOLD, ESQ.  
Administrative Judge