

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. 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:)	
)	
BRUNO MPOY)	
Employee)	
)	OEA Matter No.: 1601-0099-08
v.)	
)	Date of Issuance: May 24, 2010
DISTRICT OF COLUMBIA PUBLIC)	
SCHOOLS)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Bruno Mpoy (“Employee”) was hired by the District of Columbia Public Schools (“Agency”) on August 20, 2007 as a Special Education Teacher, ET-15. According to the District of Columbia Municipal Regulations, Title 5, Chapter 13, Section 1307.3, Employee was required to serve a two-year probationary period before he would be considered a permanent employee. On May 7, 2008, Agency notified Employee that he would be suspended from May 23, 2008 through June 6, 2008. The reason for the suspension was insubordination based on Employee’s failure to conduct a classroom

observation as he had been ordered to do on February 5, 2008 and February 12, 2008. The suspension period amounted to five working days.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“Office”) on or about June 25, 2008. In an Initial Decision issued September 10, 2008, the Administrative Judge dismissed the appeal for lack of jurisdiction. The Administrative Judge looked to D.C. Official Code § 1-606.03 which extends this Office’s jurisdiction to employees who have been removed based on a performance rating or an adverse action for cause, and to employees who have been reduced in grade, suspended for 10 days or more, or had their position abolished pursuant to a reduction-in-force. The Administrative Judge determined that because Agency had suspended Employee for only five days, this Office lacked jurisdiction to consider his appeal. For this reason, the Administrative Judge ordered that Employee’s appeal be dismissed.

Thereafter, on December 16, 2008, Employee filed a Petition for Review. In the petition, Employee makes several arguments none of which are relevant to his appeal. Even so, we cannot consider Employee’s Petition. According to D.C. Official Code § 1-606.03(c), a party has 35 days after issuance of the Initial Decision to file a Petition for Review. The Notice of Appeal Rights attached to the September 10, 2008 Initial Decision informed Employee of the filing deadline. Nevertheless, Employee did not file his Petition until December 16, 2008 even though it was due no later than October 15, 2008. Because time limits for filing appeals with administrative adjudicatory agencies are mandatory and are considered jurisdictional, we cannot consider Employee’s

Petition.¹ Accordingly, the Initial Decision must be upheld and Employee's Petition for Review denied.

¹ See *District of Columbia Pub. Employees Relations Bd. v. Metropolitan Police Dep't*, 593 A.2d 641 (D.C. 1991).

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

Clarence Labor, Jr.

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.