

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Vennie Jones)	OEA Matter No. J-0003-19
Employee)	
)	Date of Issuance: January 18, 2019
v.)	
)	Joseph E. Lim, Esq.
University of the District of Columbia)	Senior Administrative Judge
Agency)	
_____)	
Vennie Jones, Employee <i>pro se</i>		
Marko Jankovic, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION

On October 4, 2018, Vennie Jones (“Employee”), a former Clerk, Pay Grade 5, Step 6, with the University of the District of Columbia’s (“Agency”) Community College, Workforce Development and Lifelong Learning Division, funded with a Trade Adjustment Assistance Community College and Career Training Grant, filed a petition for appeal with the D.C. Office of Employee Appeals (the “OEA” or the “Office”), challenging Agency’s final decision to not renew her temporary appointment which ended on September 30, 2018. On November 5, 2018, Agency filed its Motion for Dismiss. Agency represented that the Office lacked jurisdiction to further consider this matter, due to Employee’s temporary employee status. This matter was assigned to me on December 5, 2018.

On December 7, 2018, I ordered Employee to address the issue fully. Employee asked for an extension of time. This request was partially granted and the deadline was extended to January 14, 2019. Employee has complied. Since a decision could be rendered based upon the documents submitted by the parties, pursuant to discretionary authority granted to me by OEA Rule 624.2, 59 DCR 2129 (2012), no further proceedings, including an administrative hearing on the record, are necessary. The record is now closed.

JURISDICTION

The Office lacks jurisdiction over this appeal.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

FINDINGS OF FACTS, ANALYSIS AND CONCLUSIONS

An analysis of the basic information presented to me as a part of this record underscores that the irrefutable facts govern the outcome in this matter, which is sufficiently determinative. There is no dispute that Employee accepted a temporary, full-time position of Clerk with Agency's Community College, Workforce Development and Lifelong Learning Division, effective June 12, 2017, with a "Not-To-Exceed" date of September 30, 2018.¹ On September 25, 2018, Agency notified Employee that her appointment would expire on September 30, 2018, and would not be renewed as new grant funding was not received.²

The dismissal of this appeal matter is based solely upon a determination that the Office lacks subject matter jurisdiction, as both term and temporary employees are specifically excluded from the jurisdictional authority of the OEA.

The D.C. Code and District Personnel Manual

My decision is underscored by both the *D.C. Official Code* and Chapter Eight of the D.C. Personnel Manual (the "DPM"). Pursuant to the *D.C. Official Code*, § 1-606.03(a) (2004 Repl.), an 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, placement on enforced leave, or suspension for 10 days or more; or
- (c) A reduction in force.

None of the above enumerated conditions apply in this case.³

Term Employees

Volume I, DPM, Chapter 8, Part I, addresses Term Appointment, and provides in part:

- 823.7 A term employee shall not acquire permanent status on the basis of his or her term appointment, and shall not be converted to a regular Career Service appointment without further competition . . .
- 823.8 The employment of a term employee shall end automatically on the expiration of his or her term appointment unless he or she has been separated earlier.

At Chapter 8, § 826.1 of the Regulations, it states:

¹ See Appointment Letter to Employee dated June 2, 2017.

² See September 25, 2018, Notice to Employee.

³ See also OEA Rule 604.1, 59 DCR 2129 (2012), which essentially restates the aforementioned Code.

- 826.1 The employment of an individual under a temporary or term appointment shall end on the expiration date of the appointment, on the expiration date of the extension granted by the personnel authority, or upon separation prior to the specified expiration date.
- 826.2 A term appointee may be separated as provided in this chapter during a probationary period.
- 826.3 After satisfactory completion of the probationary period, and prior to the expiration date of the appointment, separation of a term appointee for cause shall be in accordance with chapter 16 of these regulations.
- 826.4 A temporary appointee may be separated for lack of funds or lack of work in accordance with the reduction-in-force requirements of chapter 24 of these regulations.
- 826.5 A temporary appointee may be separated without notice prior to the expiration date of the appointment.

All of the above noted sections are clearly applicable, as Employee, a Clerk, was on notice that her appointment was a temporary appointment. Once a temporary or term employee's status as such has expired, there is no legal obligation for Agency to renew such an appointment.⁴

In her brief, Employee sidestepped the issue of her temporary status. Instead, Employee alluded to allegations of a hostile work environment without providing any evidence. Unfortunately for her, the applicable above cited statutes and regulations clearly state this Office has no jurisdiction to address her substantive arguments.

OEA Rule 628.2, 59 D.C. Reg. 2129 (2012), provides that employees have the burden of proving that OEA has jurisdiction to hear and decide their appeals. In the matter at hand, I find that Employee has not met this burden, and conclude, therefore, that OEA does not have subject matter jurisdiction in this matter.

ORDER

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

FOR THE OFFICE:

JOSEPH E. LIM, ESQ.
Senior Administrative Judge

⁴ See also *Gillespie v. D.C. Public Schools*, OEA Matter No. 1601-0044-15, *Opinion and Order on Petition for Review* (January 24, 2017).