

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:	)	
	)	
CHESTER BROWN,	)	OEA Matter No. J-0146-12
Employee	)	
	)	Date of Issuance: March 4, 2014
	)	
DISTRICT OF COLUMBIA	)	
GENERAL SERVICES,	)	
Agency	)	
_____	)	

OPINION AND ORDER  
ON  
PETITION FOR REVIEW

Chester Brown (“Employee”) worked as a Maintenance Worker with the District of Columbia General Services (“Agency”). On June 15, 2012, Agency issued a notice explaining that it would not extend Employee’s term appointment beyond its expiration date. The notice went on to provide that in accordance with D.C. Personnel Regulation (“DPR”) § 823.8, employment under a term appointed position automatically ends on the expiration of the appointment, unless separation has occurred earlier. Therefore, Employee was removed from his position effective June 30, 2012.<sup>1</sup>

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on July 13, 2012. He indicated that although he was a term employee, he was actually terminated

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<sup>1</sup> *Agency’s Answer*, Tab #3 (August 15, 2012).

for requesting fair treatment and resources for his position.<sup>2</sup> Agency responded by arguing that Employee was not terminated for cause or as the result of a reduction-in-force (“RIF”). It also contended that because it followed the DPR regarding term employees, OEA lacked jurisdiction to consider this matter.<sup>3</sup> As for Employee’s claims regarding discrimination, retaliation, and unfair labor practices, Agency argued that those types of issues should be raised with the D.C. Office of Human Rights and the Public Employee Relations Board.<sup>4</sup>

The OEA Administrative Judge (“AJ”) found that Employee was a term employee based upon his own admission. He also held that it was undisputed that Employee’s term ended on June 30, 2012. The AJ explained that in accordance with DPR § 823.7, a term employee could not be converted to a Career Service employee. As a result, Employee was properly removed from his position at the end of his term, and Agency was under no obligation to reappoint him. Accordingly, Employee’s Petition for Appeal was dismissed.<sup>5</sup>

Employee filed a Petition for Review with the OEA Board on October 23, 2012. He asserts that his intent was not to gripe about Agency in his Petition for Appeal but to bring attention to the poor management, disregard for safety, and lack of resources. Employee explains that the law regarding term employees should be repealed or amended to ensure that they are provided with a sense of security and prior notice pertaining to their jobs.<sup>6</sup>

This Board certainly appreciates the issues raised by Employee in his Petition for Review. It is clear that his intent was to shed a light on some problems that he claims existed in Agency. Unfortunately, those matters are grievances that OEA lacks jurisdiction to consider.

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<sup>2</sup> *Petition for Appeal*, p. 2 (July 13, 2012).

<sup>3</sup> Specifically, Agency asserted that because Employee’s employment ended at the end of his term, it was not an adverse action over which OEA has jurisdiction.

<sup>4</sup> *Agency’s Answer*, p. 1-2 (August 15, 2012).

<sup>5</sup> *Initial Decision*, p. 2 (October 16, 2012).

<sup>6</sup> *Petition for Review* (October 23, 2012).

D.C. Official Code § 1-606.03 provides the types of issues that OEA can consider on appeal.

D.C. Official Code § 1-606.03(a) provides that:

an employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue. Any appeal shall be filed within 30 days of the effective date of the appealed agency action.

Grievances are not a cause of action over which OEA has jurisdiction. Therefore, we cannot address Employee's complaints of Agency's poor management, disregard for safety, and lack of resources.

Employee concedes that he is a term employee. OEA has consistently held that it is required to follow DPR § 823.7 pertaining to term employment.<sup>7</sup> This section provides that "an employee serving under a term appointment shall not acquire permanent status on the basis of the term appointment, and shall not be converted to a regular Career Service appointment without further competition, unless eligible for reinstatement." DPR § 823.8 goes on to note that "employment under a term appointment shall end automatically on the expiration of the appointment, unless the employee has been separated earlier."<sup>8</sup> Therefore, in accordance with the District Personnel Regulations, Employee was properly removed from employment on June 30, 2012. His term ended on that date, and as the AJ held, Agency had no obligation to reappoint him. Accordingly, Employee's Petition for Review is denied.

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<sup>7</sup> *Carolyn Brooks v. D.C. Public Schools*, OEA Matter No. J-0136-08, *Opinion and Order on Petition for Review* (July 30, 2010) and *Roxanne Smith v. D.C. Department of Parks and Recreation*, OEA Matter No. J-0103-08, *Opinion and Order on Petition for Review* (May 23, 2011).

<sup>8</sup> Similarly, DPR § 826.1 also provides that "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 an extension granted by the personnel authority, or upon separation prior to the specified expiration date in accordance with this section."

**ORDER**

It is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

FOR THE BOARD:

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William Persina, Chair

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Sheree L. Price, Vice Chair

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Vera M. Abbott

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A. Gilbert Douglass

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Patricia Hobson Wilson

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.