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**THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS**

_____)	
In the Matter of:)	
)	
HAMID MANNEH,)	
Petitioner)	
)	OEA Matter No. J-0058-16
v.)	
)	Date of Issuance: September 30, 2016
DISTRICT OF COLUMBIA)	
DEPARTMENT OF HUMAN RESOURCES,)	
Agency)	MICHELLE R. HARRIS, Esq.
_____)	Administrative Judge
Hamid Manneh, Petitioner <i>Pro Se</i>		
Amir Farhangi, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On June 27, 2016, Hamid Manneh (“Mr. Manneh”) filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the District of Columbia Department of Human Resources’ (“Agency” or “DCHR”) revocation of a verbal offer to hire him as a Program Analyst I (JO-1603-4909) with the Department of Human Services. On July 8th, 11th and 13th, 2016, Mr. Manneh submitted supplemental documentation to his Petition for Appeal. I was assigned this matter on July 7, 2016. On July 26, 2016, Agency filed an Answer to the Petition for Appeal and a Motion to Dismiss. Agency noted in its Answer and Motion to Dismiss that OEA lacks jurisdiction over this matter because Mr. Manneh’s petition is a non-appealable agency action.

On July 28, 2016, I issued an Order directing Mr. Manneh to address the jurisdiction issues raised by Agency. Mr. Manneh had until August 12, 2016, to reply. Agency could submit its response on or before August 26, 2016. Employee submitted his brief by the deadline. Agency did not submit a subsequent response. After considering the parties’ arguments as 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 has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

FINDINGS OF FACTS, ANALYSIS AND CONCLUSIONS OF LAW

Mr. Manneh asserts that he applied, interviewed and was provided a verbal offer of employment as a Program Analyst I (JO-1603-4909) with the Department of Human Services. Ultimately, the Department of Human Services (“DHS”) cancelled the position and Mr. Manneh was informed that he was not selected for the position.

Mr. Manneh’s Position

Mr. Manneh asserts that he was provided a verbal offer following his application and interview for a Program Analyst position with the Department of Human Services. Mr. Manneh states that he “competitively applied for the Program Analyst I position (JO-1603-4909), was selected and offered the position, only to have it rescinded because the hiring manager resigned.”¹ Mr. Manneh claims that on June 2, 2016, he had an interview with DHS representatives including, Ruby Lathan, Martina Green and Brian Campbell.² Mr. Manneh avers that following the interview, on June 6, 2016, he received a call from DHS representative Cheryl Pringle who indicated that he had been selected for the position, and she provided a verbal offer which he “gladly accepted.”³ Mr. Manneh indicates that during that call Ms. Pringle advised him that the position would be a career term and would have a start date of June 29, 2016.

Mr. Manneh asserts that he told Ms. Pringle that he was currently an intern with the District Leadership Program, and that someone would need to be contacted to have his information sent to her. Manneh contends that during this call, Ms. Pringle indicated that a written offer letter would be sent to him no later than June 10, 2016. Mr. Manneh states that on June 10, 2016, he received a call from Ms. Pringle indicating that the job offer had been rescinded, and that the Program Analyst I position had been cancelled. Mr. Manneh indicated that he inquired as to why the position was cancelled, and was told that the hiring manager had resigned, and that the incoming replacement did not want to hire him since he had been selected by the previous manager.⁴

Agency’s position

Agency asserts that OEA lacks jurisdiction over this matter because “Employee seeks to Petition a non-appealable Agency action, the alleged non-selection of a position.”⁵ Agency states that on June 13, 2016, Mr. Manneh emailed Amir Farhangi, an Attorney-Advisor for DCHR requesting an “investigation to DHS’ non-compliance of DCHR Policy/DHS Employment Discrimination.”⁶ Agency asserts that Mr. Manneh indicated that he had received a verbal offer from DHS that was later revoked. Agency claims that Mr. Farhangi informed Mr. Manneh that they would conduct an investigation regarding his allegations. On June 24, 2016, Agency indicates that Mr. Farhangi emailed Mr. Manneh a letter that contained the results of their investigation. The letter

¹ Petitioner’s Petition for Appeal (June 27, 2016).

² Petitioner’s Petition for Appeal at Attachment (June 27, 2016).

³ *Id.*

⁴ *Id.*

⁵ Agency Answer at Page 4 (July 26, 2016).

⁶ Agency Answer at Page 2 (July 26, 2016).

asserted that DHS did not violate any DCHR policy or other District regulation, and that the position to which Mr. Manneh had applied for had ultimately been cancelled.⁷ Further, Agency notes that Mr. Manneh was told that no formal selection was made for that position.

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") § 604.1⁸, this Office has jurisdiction in matters involving District government employees appealing a final agency decision affecting:

- (a) A performance rating resulting in removal;
- (b) An adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more; or
- (c) A reduction-in-force; or
- (d) A placement on enforced leave for ten (10) days or more.

OEA Rule 628.1, 59 DCR 2129 (March 16, 2012), states that "[t]he employee shall have the burden of proof as to issues of jurisdiction..." Pursuant to this rule, the burden of proof is by a preponderance of the evidence which is defined as "[t]hat 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." This Office has no authority to review issues beyond its jurisdiction.⁹ Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding.¹⁰

In the instant matter, I agree with the assertion that OEA does not have jurisdiction over this matter. Based on information submitted in the record, I find that Mr. Manneh was not conferred employment status for this position based on the verbal offer following his interview. Further, Agency notified Mr. Manneh that the position had been closed and that no one was selected to fill the position. While the circumstances regarding the revocation of the verbal offer are understandably upsetting, Mr. Manneh's petition does not meet statutory guidelines for an appeal that can be adjudicated by this Office. His petition does not relate to a performance rating that resulted in removal; it is not an adverse action for cause that has resulted in removal, reduction in grade, suspension for ten (10) or more days; it is not a reduction-in-force; and it is not considered enforced leave for ten (10) days or more. Further, it is an established matter of public law that as of October 21, 1998, pursuant to the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, OEA no longer has jurisdiction over grievance appeals. Mr. Manneh's other ancillary arguments regarding employment discrimination, illegal hiring practices and unethical behaviors on

⁷ *Id.*

⁸ See also, Chapter 6, §604.1 of the District Personnel Manual ("DPM") and OEA Rules.

⁹ See *Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

¹⁰ See *Brown v. District of Columbia Public Schools*, OEA Matter No. 1601-0027-87, *Opinion and Order on Petition for Review* (July 29, 1993); *Jordan v. Department of Human Services*, OEA Matter No. 1601-0110-90, *Opinion and Order on Petition for Review* (January 22, 1993); *Maradi v. District of Columbia Gen. Hosp.*, OEA Matter No. J-0371-94, *Opinion and Order on Petition for Review* (July 7, 1995).

the part of Agency, are best characterized as grievances and are outside of OEA's jurisdiction to adjudicate.

Consequently, I conclude that the verbal offer of employment did not confer District Government employee status on Mr. Manneh for the Program Analyst I (JO-1063-4909) position, and therefore Mr. Manneh's petition is not the result of a final agency decision that is appealable to OEA. This is not to say that Mr. Manneh may not press his claims elsewhere, but that this Office lacks the jurisdiction over his appeal. For these reasons, I find that OEA lacks the jurisdiction to adjudicate this matter.

ORDER

It is hereby ORDERED that Agency's Motion to Dismiss is **GRANTED**. It is further **ORDERED** that the Petition in this matter is **DISMISSED for lack of jurisdiction**.

FOR THE OFFICE:

MICHELLE R. HARRIS, Esq.
Administrative Judge