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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
TYHASHA WRIGHT,)	
Employee)	OEA Matter No. 2401-0083-17
)	
v.)	
)	Date of Issuance: April 9, 2019
D.C. PUBLIC SCHOOLS,)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Tyhasha Wright (“Employee”) worked for the D.C. Public Schools (“Agency”) as an Administrative Officer. On May 22, 2017, Employee received a notice from Agency that she would be removed from her position due to a Reduction-in-Force (“RIF”). The effective date of Employee’s removal was August 4, 2017. Employee contested the RIF action and filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on August 14, 2017. She argued that Agency retaliated against her and failed to protect her from workplace bullying.¹

On September 21, 2017, Agency filed its Answer and Motion to Dismiss Employee’s Petition for Appeal. It explained that prior to Employee’s termination date, she accepted a

¹ *Petition for Appeal*, p. 1, 4, and 10. (August 14, 2017).

position at another elementary school.² Therefore, Agency requested that Employee's petition be dismissed because she was not separated from service.³

Prior to issuing his Initial Decision, the Administrative Judge ("AJ") ordered Agency to submit the Administrative Order which authorized the RIF action.⁴ On June 19, 2018, Agency responded by providing that it was not required to obtain an Administrative Order. According to Agency, it had the authority to conclude that a RIF was necessary and thereafter implement it.⁵ Therefore, no documentation was provided.

The AJ issued his Initial Decision on August 27, 2018. He held that Mayor's Order 2007-186 granted Agency's Chancellor the authority to make personnel decisions, including RIFs. However, he noted that Agency failed to provide an Administrative Order, or equivalent document, from the Chancellor approving the RIF. The AJ found that Agency only provided a notice that outlined staffing changes and reductions. However, the notice did not serve as the Administrative Order which identifies the competitive area or positions to be abolished, by position number, title, series, grade, and organizational location. The AJ held that although Agency may have complied with the other requirements set forth in D.C. Official Code § 1-624.02, without proper approval of the Chancellor, the RIF was invalid. Consequently, he reversed Agency's RIF action and ordered it to reimburse Employee all back pay and benefits lost as a result of her being transitioned into a part-time position from August 4, 2017, through November 12, 2017.⁶

² In a subsequent brief, Agency explained that Employee's newly accepted position was part-time. *District of Columbia Public Schools' Prehearing Statement* (January 5, 2018).

³ *District of Columbia Public Schools' Answer and Motion to Dismiss*, p. 1-2 (September 21, 2017).

⁴ *Order Requesting Documents* (June 5, 2018).

⁵ *District of Columbia Public Schools' Response to the Administrative Judge's June 5, 2018 Order*, p. 1-2 (June 19, 2018).

⁶ According to the AJ, prior to the RIF action becoming final, Employee accepted a part-time position with Agency beginning July 23, 2017. However, the part-time position became full-time on November 12, 2017. Thus, for three and a half months, Employee received a part-time salary instead of the full-time salary she would have received

On October 2, 2018, Agency filed a Petition for Review. It states that the AJ's decision was not based on substantial evidence. Agency argues that the AJ was incorrect in finding that the Chancellor was required to issue a written Administrative Order authorizing the RIF. Additionally, it explains that D.C. Official Code § 1-624.02 does not provide that the Chancellor is required to issue a written Administrative Order that demonstrates that she authorized the RIF. Further, Agency asserts that the Chancellor was fully aware of the activities concerning the RIF action, and it provided Employee with a notice that outlined the Chancellor's basis for the reduction, a listing of job fairs, and the affected employees' job titles. Accordingly, Agency requests that this Board reverse the AJ's Initial Decision.⁷

On November 5, 2018, Agency filed a Motion to Voluntarily Withdraw its Petition for Review. As a result, it requests that the OEA Board dismiss the petition.⁸ In light of Agency's request to voluntarily withdraw its petition, the Petition for Review is dismissed. Accordingly, Agency must adhere to the Administrative Judge's order to reimburse Employee all back pay and benefits lost as a result of her being transitioned into a part-time position from August 4, 2017 through November 12, 2017.

prior to the RIF. *Initial Decision*, p. 3-5 (August 27, 2018).

⁷ *District of Columbia Public Schools' Petition for Review*, p. 3-10 (October 2, 2018).

⁸ *District of Columbia Public Schools' Motion to Voluntarily Withdraw Petition for Review* (November 5, 2018).

ORDER

It is hereby ordered that Agency's Petition for Review is **DISMISSED**. Accordingly, Agency is ordered to reimburse Employee all back pay and benefits lost as a result of her being transitioned into a part-time position from August 4, 2017 through November 12, 2017.

FOR THE BOARD:

Clarence Labor, Chair

Vera M. Abbott

Patricia Hobson Wilson

Jelani Freeman

Peter Rosenstein

Either party may appeal this decision on Petition for Review to the Superior Court of the District of Columbia. To file a Petition for Review with the Superior Court, the petitioning party should consult Superior Court Civil Procedure Rules, XV. Agency Review, Rule 1.