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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Precious West)	OEA Matter No. J-0012-08
Employee)	
)	Date of Issuance: November 30, 2007
v.)	
)	Sheryl Sears, Esq.
)	Administrative Judge
Department of Transportation)	
_____)	
Agency)	

Precious West, Employee, *Pro Se*
Emeka Moneme, Director, Department of Transportation

INITIAL DECISION

INTRODUCTION AND FINDINGS OF FACT

Employee had been an Infrastructure Coordinator in Agency’s Systems Inspection Oversight Division for 3 months when Agency removed her from her probationary position effective on November 5, 2007.

JURISDICTION

This Office does not have jurisdiction over this appeal.

ISSUES

Whether this appeal should be dismissed for lack of jurisdiction.

BURDEN OF PROOF

OEA Rule 629.2, 46 D.C. Reg. 9297 (1999) states that [t]he employee shall have the burden of proof as to issues of jurisdiction. . .” Accordingly, Employee has the burden of proving that this Office has jurisdiction over her appeal.

ANALYSIS AND CONCLUSIONS

The Office of Employee Appeals was established by the D.C. Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979, D.C. Law 2-139, D.C. Code § 1-601.01 *et seq.* Effective October 21, 1998, the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, amended some sections of the CMPA. Section 101(d) of OPRAA amended § 1-606.03 of the Code to provide as follows:

- (a) An employee may appeal a final agency decision effecting a performance rating which results in removal of the employee... *an adverse action for cause that results in removal*, reduction in grade, or suspension for 10 days or more... or a reduction in force (Emphasis added).

Effective June 9, 2000, the Council of the District of Columbia amended the regulations implementing the Act.

In accordance with Chapter 16, §1600.1, the rules for general discipline and grievances apply only to permanent employees. Employee, who was serving her probationary period, was not covered by the provisions that afford appeal rights to career service employees. Therefore, this Office does not have jurisdiction over this appeal from a probationary employee and it must be dismissed.

ORDER

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

FOR THE OFFICE:

SHERYL SEARS, ESQ.
ADMINISTRATIVE JUDGE