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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
DONNA GREEN,)	
Employee)	OEA Matter No. 2401-0097-15
)	
v.)	Date of Issuance: September 29, 2015
)	
DEPARTMENT OF GENERAL)	
SERVICES,)	
Agency)	ERIC T. ROBINSON, Esq.
_____)	Senior Administrative Judge
Donna Green, Employee <i>Pro-Se</i>		
C. Vaughn Adams, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On July 7, 2015, Donna Green (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA” or the “Office”) contesting the Department of General Services (“DGS” or the “Agency”) action of abolishing her second to last position of record, Statistician ED-1530-13-01, through a Reduction in Force (“RIF”). The effective date of the RIF was July 2, 2015. On August 7, 2015, DGS provided an Answer to Employee's petition for appeal. In its Answer, DGS explained that prior to the implementation of the instant RIF, Employee herein accepted a new position within Agency as a Program Analyst II, CS-0343-13. This new position was not subjected to the instant RIF and this new position resulted in a modest increase in Employee's salary. Employee is currently employed by DGS in her new position of record and there is no credible indication in the record that Employee endured a break in service.

This matter was assigned to the Undersigned on or around August 12, 2015. After reviewing Employee’s petition for appeal, I noted that there existed an issue as to whether the OEA may exercise jurisdiction over this matter. On August 17, 2015, I issued an Order to Employee requiring her to address this issue. Employee requested an extension of time to file her response. To date, I have not received her response. After reviewing the documents of record, I have determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

As will be explained below, the jurisdiction of this Office has not been established.

ISSUE

Whether this matter should be dismissed.

ANALYSIS AND CONCLUSION

Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the Comprehensive Merit Personnel Act, sets forth the law governing this Office. D.C. Official Code § 1-606.03 reads in pertinent part as follows:

(a) 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.

As noted above, I find that the jurisdiction of this Office is expressly limited to performance ratings that result in removals; final agency decisions that result in removals, reductions in grade; suspensions or enforced leave of ten days or more; or reductions in force. *See* OEA Rule 604.1. The OEA does not have jurisdiction over RIF's that do not result in an employee being separated from service. The record herein is clear that Employee accepted a new position within DGS allowing her to avoid being separated from service via RIF. Moreover, there is no credible evidence that Employee suffered a break in service or a reduction in salary. I find that Employee herein is appealing a grievance with respect to the aforementioned allegation. Of note, it is an established matter of public law that the OEA no longer has jurisdiction over grievance appeals.¹ That is not to say that Employee may not press her claims elsewhere, but rather that the OEA currently lacks the jurisdiction to hear Employee's other claims.

¹ Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124.

ORDER

Based on the foregoing, it is hereby ORDERED that this matter be DISMISSED for lack of jurisdiction.²

FOR THE OFFICE:

ERIC T. ROBINSON, Esq.
Senior Administrative Judge

² Since Employee failed to establish the jurisdiction of this Office in this matter, I am unable to address the factual merits (if any) of any arguments that Employee noted in her petition for appeal.