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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the matter of :)	
)	
ODIS W. BRADFORD)	OEA Matter No. J-0114-05
Employee)	
)	Date of Issuance: October 11, 2005
v.)	
)	Sheryl Sears, Esq.
D.C. PUBLIC SCHOOLS)	Administrative Judge
Agency)	
)	
_____)	

Sandy V. Lee, Esq., Employee Representative
Harriet E. Segar, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND FINDINGS OF FACT

The District of Columbia Board of Education removed two of the three Engineering Technicians at the Kramer Annex by reduction-in-force (RIF) in the fiscal year of 1996. Agency notified Employee, by notice of July 3, 1996, that he would be separated effective August 5, 1996.

Employee filed an appeal with this Office (OEA Matter No. 2401-0215-96). This Judge rendered a decision ordering Agency to reverse the removal, restore to Employee the monies that he lost as a result of the action and file documents showing compliance with the Order.

Agency filed a petition for review of that decision with the Board of the Office. However, March 10, 2004, the Board affirmed this Judge's decision. On November 26, 2004, Employee filed a petition for enforcement of the Board's decision asserting that, although Agency reinstated him on May 14, 2004, he was not paid his lost wages and other benefits.

The petition for enforcement was referred to the Office's Mediation Program on December 29, 2004. On February 15, 2005, Mediator, Daryl Hollis, Esq. met with the parties and they agreed on terms of settlement. On June 8, 2005, this Judge issued an addendum decision in OEA Matter No. 2401-0215-96C2004, dismissing Employee's petition for enforcement pursuant to that settlement.

On July 13, 2005, Employee submitted a request for this Office to reopen the petition for enforcement alleging that Agency failed to comply with the terms of the settlement agreement. On August 11, 2005, an order issued for Employee to submit a statement of reasons that this matter should not be dismissed for lack of jurisdiction. The deadline for that submission was September 2, 2005. Employee did not make a submission in compliance with that order. The record is now closed.

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 . . ."

JURISDICTION

As will be discussed in detail below, the jurisdiction of this Office has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

ANALYSIS AND CONCLUSIONS

Employee appealed from Agency's alleged failure to comply with the terms of the settlement agreement by which the issue of enforcement of the decision of this Office on his original appeal was resolved. The threshold question presented is whether this Office has jurisdiction over an appeal taken from a settlement agreement. The simple answer is, "No."

The Office of Employee Appeals was established by the D.C. Comprehensive Merit Personnel Act of 1978 (CMPA), D.C. Law 2-139. Those actions that employees of the District of Columbia government may appeal to the Office are listed at D.C. Official Code § 1-606.03. Effective October 21, 1998, the Omnibus Personnel Reform Amendment Act of 1998 (OPRAA) D.C. Law 12-124, section 101(d) of OPRAA amended § 1-606.03 so that it provides 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).

Employee originally appealed from a RIF by Agency that resulted in his removal. As noted above, a RIF is within the jurisdiction of this Office. The Office heard his RIF appeal and rendered a decision in Employee's favor. However, Agency failed to comply with the Order in a timely fashion and Employee sought relief through a petition for enforcement. Agency and Employee resolved the issues presented by the petition for enforcement by negotiating a settlement agreement.

It is well established that a settlement agreement is a private contract between the parties to a law suit. See *Brown v. Brown*, 343 A.2d 59 (D.C. 1975); *Proctor v. Ward*, 83 A.2d 281 (D.C. 1951); *Rucker v. District of Columbia Fire and Emergency Medical Services Dept.*, OEA Matter No. 1601-0070-93, Opinion and Order on Petition for Review (July 7, 1995), ___ D.C. ___ at 2. Questions of enforcement are governed by the principles of contract law. *Village of Kaktovik v. Watt*, 689 F.2d 222 (D.C. Cir. 1982), *United States v. Morton Salt Co.*, 338 U.S. 632 (1950). This Office does not have jurisdiction over contract disputes.

Thus, this Office does not have jurisdiction over Employee's complaint in this matter. Without jurisdiction, the Office does not have the authority to consider this appeal. Therefore, 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