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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
SUMAYYA LANE,)	
Employee)	OEA Matter No. J-0160-11
)	
v.)	Date of Issuance: November 4, 2011
)	
DEPARTMENT OF MENTAL HEALTH,)	
)	
Agency)	ERIC T. ROBINSON, Esq.
_____)	Administrative Judge
Sumayya Lane, Employee <i>Pro-Se</i>		
Justin Zimmerman, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On August 10, 2011 Sumayya Lane (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA”) contesting the Department of Health’s (“Agency”) action of placing her on administrative leave with pay. I was assigned this matter on or around September 21, 2011.

Employee’s last position of record within the Agency was Nurse Educator. After reviewing the documents of record, I initially determined that there existed a question as to whether the OEA may exercise jurisdiction over this matter. Accordingly, on September 22, 2011, I issued an Order requiring Employee to address whether the OEA may exercise jurisdiction over her matter. Employee has since submitted her brief on jurisdiction. Employee admitted that she was initially placed on administrative leave with pay. However, Employee disclosed that while she was on administrative leave with pay, she was informed, via written notice, that her position was being abolished through a Reduction-In-Force (“RIF”) and that the effective date of the RIF was September 30, 2011. With respect to the RIF, Employee filed another petition for appeal with the OEA. That matter was docketed as OEA Matter No. 2401-0011-12. After reviewing Employee’s submission, along with all of the other relevant facts and circumstances, I have determined that no further proceedings in this matter are warranted. The record is now closed.

JURISDICTION

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

BURDEN OF PROOF

OEA Rule 629.1, 46 D.C. Reg. 9317 (1999) states that:

The burden of proof with regard to material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

That 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.

OEA Rule 629.2, *id.*, states that "the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing."

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.

This Office has no authority to review issues beyond its jurisdiction. See *Banks v. District of Columbia Pub. Sch.*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (Sept. 30, 1992), ___ D.C. Reg. ___ (). Therefore, issues regarding jurisdiction may be raised at any time during the course of the proceeding. See *Brown v. District of Columbia Pub. Sch.*, OEA Matter No. 1601-0027-87, *Opinion and Order on Petition for Review* (July 29, 1993), ___ D.C. Reg. ___ (); *Jordan v. Department of Human Services*, OEA Matter No. 1601-0110-90, *Opinion and Order on Petition for Review* (Jan. 22, 1993), ___ D.C. Reg. ___ (); *Maradi v. District of Columbia Gen. Hosp.*, OEA Matter No. J-0371-94, *Opinion and Order on Petition for Review* (July 7, 1995), ___ D.C. Reg. ___ ().

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. I find that Employee was subjected to administrative leave with pay which is outside of the OEA's authority to review.

ORDER

It is hereby ORDERED that this matter be DISMISSED for lack of jurisdiction.

FOR THE OFFICE:

ERIC T. ROBINSON, Esq.
Administrative Judge