

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

In the Matter of:	)	
	)	
DONALD W. PENN	)	
JANICE ARKUE	)	
NARENDRA ARORA	)	
Employee	)	
	)	OEA Matter Nos.: 2401-0042-03
	)	2401-0055-03
v.	)	2401-0056-03
	)	Date of Issuance: September 5, 2007
D.C. DEPARTMENT OF MENTAL	)	
HEALTH	)	
Agency	)	

**OPINION AND ORDER**  
**ON**  
**PETITION FOR REVIEW**

Donald Penn, Janice Arkue, and Narendra Arora (“Employees”) worked for the Department of Mental Health (“Agency”). Mr. Penn was a Mail Clerk, Ms. Arkue was an Occupational Therapy Assistant, and Mr. Arora was a Mechanical Engineer. On January 24, 2003 the Employees received a letter notifying them that their positions were being abolished due to a reduction-in-force (“RIF”). The letter went on to state that the RIF would take effect February 28, 2003. On the date that the RIF was to have taken

effect, the Employees took the optional voluntary retirement. As a result, the impending RIF did not take effect.

Thereafter, the Employees filed a Petition for Appeal with the Office of Employee Appeals (“OEA”). In an Initial Decision issued February 1, 2005 the Administrative Judge dismissed the Employees appeals on the basis that OEA lacked jurisdiction to consider the appeals. The Administrative Judge held that because each Employee had voluntarily retired, “this Office has no jurisdiction over their appeals.”<sup>1</sup>

On March 7, 2005 Employees filed a Petition for Review. They do not contest the Administrative Judge’s finding with respect to the voluntary nature of their retirements. Instead, they claim that “the Agency violated District personnel regulations in its attempt to provide (1) one round of lateral competition and (2) a 30-day notice to affected employees.”<sup>2</sup> They also raise several pre-RIF issues which they first raised before the Administrative Judge. On April 8, 2005 Agency filed a Response to Employees Petition for Review.

Because Employees voluntarily retired, it is immaterial whether Agency provided the one round of lateral competition or a 30-day notice. With respect to the pre-RIF issues, we agree with the Administrative Judge who stated that “pre-RIF conditions . . . are not within the jurisdiction of this Office to hear and decide.”<sup>3</sup> Employees have not given a reason to disturb the Initial Decision. Therefore, their Petition for Review must be denied.

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<sup>1</sup> *Initial Decision* at 7.

<sup>2</sup> *Petition for Review* at 7.

<sup>3</sup> *Initial Decision* at 7.

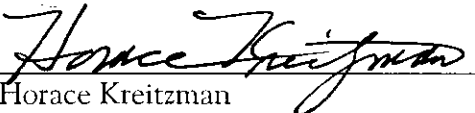
ORDER

Accordingly, it is hereby **ORDERED** Employees' Petition for Review is **DENIED**.

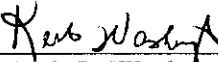
FOR THE BOARD:



Brian Lederer, Chair



Horace Kreitzman



Keith E. Washington



Barbara D. Morgan

Richard F. Johns

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.