

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

INITIAL DECISION

² Agency's Answer and Motion to Dismiss Employee's Petition for Appeal (August 15, 2025).

On September 17, 2025, Agency submitted a response to Employee's Brief on Jurisdiction. Agency cited in its response that it had received Employee's brief on August 15, 2025. Accordingly, the undersigned contacted the parties via email to inquire whether Employee had submitted her brief to this Office. Employee indicated that she would submit her brief on September 18, 2025, which was received as stated. After considering the parties' arguments as presented in their submissions to this Office, the undersigned has determined that an Evidentiary Hearing is not warranted. The record is now closed.

JURISDICTION

The jurisdiction of this Office has not been established in this matter.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for 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 631.2 *id.* states:

For appeals filed under §604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Employee's Position

Employee asserts in her Petition for Appeal that she was not appropriately terminated. She argues that Agency terminated her in retaliation after "speaking about her wage." Employee avers that she was told by management not to speak about her wages. She further asserts gender discrimination and cites that "a male was reprimanded differently than she was and without reasonable explanation."³ In her Brief on Jurisdiction, Employee also avers that her discussions regarding wages led to relocation and eventual termination. Employee contends that even as a seasonal employee, her claims of retaliation and discrimination fall within OEA's jurisdiction. Employee further asserts that "any adverse action in response to her wage discussions, including

³ Employee's Petition for Appeal, p 2 (July 18, 2025).

relocation and termination, may be considered retaliatory and unlawful.”⁴ Employee further asserts that OEA’s jurisdiction is not precluded where retaliation or discrimination is alleged.⁵

Agency’s Position

Agency asserts that this Office lacks the jurisdiction to adjudicate this matter. Agency avers that at the time of her termination, Employee was a temporary employee hired for seasonal work during the Summer of 2025 at the time of her termination; therefore, Employee has no appeal rights under the District Personnel Manual (“DPM”) and no appeal rights before OEA.⁶ Agency further avers that Employee’s offer letter stated that her employment was temporary.⁷ Agency denies that it ended Employee’s seasonal employment for discriminatory reasons or that it showed favoritism to male employees.⁸

Analysis

The threshold issue in this matter is one of jurisdiction. This Office has no authority to review issues beyond its jurisdiction.⁹ This Office’s jurisdiction is conferred upon it by law and was initially established by the District of Columbia Comprehensive Merit Personnel Act of 1978 (“CMPA”), D.C. Official Code § 1-601-01, *et seq.* (2001). It was amended by the Omnibus Personnel Reform Amendment Act of 1998 (“OPRAA”), D.C. Law 12-124, which took effect on October 21, 1998. Both the CMPA and the OPRAA conferred jurisdiction on this Office to hear appeals, with some exceptions. According to the rules of this Office, established at 6-B of the District of Columbia Municipal Regulation (“DCMR”) Chapter 600, Rule 604.1 states this Office has jurisdiction in matters involving District Government employees appealing a final agency decision affecting:

- (a) A performance rating resulting in removal;
- (b) An adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more; or
- (c) A reduction-in-force; or
- (d) A placement on enforced leave for ten (10) days or more.

In the instant matter, the undersigned agrees with Agency’s assertion that OEA lacks jurisdiction over this matter. The record reflects that Employee was not terminated for one of the reasons outlined above and she was a temporary employee; thus, jurisdiction is not established in this matter. Further, Employee was terminated consistent with Section 209.12 of the DPM, which cites that “[t]he employment of an individual under a temporary or term appointment shall end on the expiration date of the appointment, on the expiration date of any extension granted by the personnel authority, *or upon separation prior to the specified expiration date in accordance with this section.*” (Emphasis added). Here, Employee was terminated before the expiration of her temporary appointment. Her Notice of Termination indicated that her appointment was set to expire on August 30, 2025, and she

⁴ Employee’s Brief on Jurisdiction, p. 1 (September 18, 2025).

⁵ *Id.* at p. 2.

⁶ Agency’s Answer and Motion to Dismiss, p. 1 (August 15, 2025).

⁷ *Id.* at p. 2.

⁸ Agency’s Response to Employee’s Brief on Jurisdiction, p. 4 (September 17, 2025).

⁹ *See. Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

was terminated effective July 15, 2025. Her Notice of Termination does not suggest that she was terminated for cause or as the result of any adverse action from which she could appeal.¹⁰

OEA has consistently held that OEA lacks jurisdiction over temporary employees.¹¹ There is no dispute that Employee was a temporary Employee. Further, Employee's Notification of Personnel Action Form SF-50, listed her appointment as a temporary appointment and both her Offer Letter and Notice of Termination clearly state that she was a temporary employee.¹² Thus, I find that Employee was not in a permanent status at the time of her removal. As such, I further find that this Office cannot hear the merits of Employee's appeal.

Discrimination Claim

While Employee asserts several arguments concerning the merits of her appeal, the undersigned finds that those arguments do not overcome Employee's burden to establish jurisdiction by a preponderance of the evidence. Further, assuming *arguendo* that this Office could retain jurisdiction, Employee's discrimination claim does not fall within the purview of OEA's scope of review, as D.C. Official Code § 2-1411.02, specifically reserves complaints of unlawful discrimination to the Office of Human Rights.¹³ Accordingly, the undersigned finds that Employee's temporary status at the time of termination precludes her from appealing her removal to this Office, as OEA lacks jurisdiction in this matter.

ORDER

It is hereby **ORDERED** that Agency's Motion to Dismiss is **GRANTED** and Employee's Petition for Appeal is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

/s/ Natiya Curtis
NATIYA CURTIS, Esq.
Administrative Judge

¹⁰ Agency's Answer and Motion to Dismiss at attachments 1 and 2 (August 15, 2025).

¹¹ *Employee v. University of the District of Columbia*, J-0003-19, *Opinion and Order on Petition for Review* (December 3, 2019); *Employee v. Metropolitan Police Department*, J-0053-24 (August 13, 2024).

¹² Agency's Answer and Motion to Dismiss at page 6. *See also* attachments 1 and 2 (August 15, 2025).

¹³ D.C. Official Code §§ 1-2501 *et seq.*