Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and the Office of Employee Appeals' website. Parties should promptly notify the OEA Chief Operating Officer 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:	)	
	)	
EMPLOYEE,[1]	)	
Employee	)	OEA Matter No. J-0094-26
	)	
v.	)	Date of Issuance: November 3, 2026
	)	
D.C. DEPARTMENT OF PUBLIC WORKS,	)	ChôNayse Sellers, Esq.
Agency.	)	Administrative Judge
	)	

Employee, *Pro se*
Daniel Thaler, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On July 21, 2026, Employee filed a Petition for Appeal ("Petition") with the Office of Employee Appeals ("OEA" or "Office") contesting the District of Columbia Department of Public Works' ("DPW" or "Agency") decision to terminate him from his position as a Support Services Specialist. Employee's termination was effective on June 26, 2026. OEA issued a Request for Agency's Answer to Employee's Petition for Appeal on July 21, 2026. Agency's Answer was due on or before August 20, 2026. On August 26, 2026, Agency filed its Answer to the Petition asserting that OEA lacks jurisdiction over this matter as Employee voluntarily retired prior to filing his appeal. This matter was assigned to the undersigned on August 20, 2026. On August 24, 2026, I issued an Order for Briefs on Jurisdiction requiring the parties to submit briefs addressing whether OEA has jurisdiction in this matter. Both parties have submitted their briefs as required. After reviewing the record, I have determined that an evidentiary hearing is not warranted in this matter. The record is now closed.

JURISDICTION

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

[1] Employee's name was removed from this decision for the purposes of publication on the Office of Employee Appeals' website.

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 that OEA has jurisdiction over this matter. Employee admits that he submitted his resignation on June 25, 2026, and filed for retirement on June 26, 2026, but contends that said actions were not done "freely and under ordinary circumstances"[2]. Specifically, Employee cites that the circumstances surrounding his separation were:

> "be[ing] accused of improperly providing government property to a campaign worker;
> be[ing] placed on administrative leave;
> be[ing] advised that an investigation could take approximately 45 days;
> [being] told …that **my best option** was to resign;
> receiv[ing] multiple calls from my Associate Director concerning my decision;
> attempt[ing] to identify another position at DGS;
> [being] told that Ms. West and Interim Director were waiting for my resignation;
> experiencing substantial emotional distress concerning the accusation and the potential impact on my 23-year career."[3]

[2] Employee Official Response Brief ("Employee's Brief"), p. 5 (September 8, 2026).
[3] *Id.*

Employee also asserts that he has suffered "significant stress and harassment"[4] as a result of the calls from his supervisor during the period immediately preceding his resignation. Employee further avers that he was denied an opportunity to exercise his due process rights over the allegations that led to the investigation. Employee maintains that as a result of these circumstances, and considering his employment record, and 23 years of service, OEA has jurisdiction over this appeal.

Agency's Position

Agency asserts that Employee's Petition must be dismissed for lack of jurisdiction as Employee voluntarily retired from his position.[5] Agency contends that it does not dispute the timeline for which Employee was placed on administrative leave, submitted his resignation, and then retired from the Agency.[6] Agency argues that this timeline bolsters its position that Employee voluntarily retired as there was no deadline by which Employee needed to decide his future.[7] Agency disputes that Employee retired under duress or coercion. Agency cites to Employee resigning eight (8) days after his supervisor said it would be his best option.[8] Agency argues that this eight-day gap negates any argument of coercion as Employee had sufficient time to think about his decision.[9] Further, Agency argues that any calls made by Employee's supervisor between June 17 through June 24, 2026, were "standard employer interaction"[10] and not attempts to coerce Employee to retire. Agency avers that these calls cannot be categorized as coercion when Employee never spoke to his supervisor, and she did not leave a voicemail.[11] Agency further asserts that any conversation that the supervisor had with a third party cannot be coercive when Employee was not present.[12] Agency disputes that Employee was denied due process. Agency contends that Employee was aware of the investigation, his rights during the investigation, and that any proposed action would only occur after the investigation was complete. Agency maintains that Employee's choice to retire ended the investigation and eliminated his opportunity to defend himself against the allegations. [13]

Analysis[14]

[4] *Id.* at 4.
[5] Agency's Response to Employee's Brief on Jurisdiction ("Agency's Brief"), p. 6 (September 22, 2026).
[6] *See* Agency's Brief at 2.
[7] *Id*. at 4.
[8] *Id*. at 5.
[9] *Id*. at 4-5.
[10] *Id.* at p. 6.
[11] *Id*.
[12] *Id*.
[13] *Id*. at 12.
[14] Although I may not discuss every aspect of the evidence in the analysis of this case, I have carefully considered the entire record. *See Antelope Coal Co./Rio Tino Energy America v. Goodin*, 743 F.3d 1331, 1350 (10th Cir. 2014) (citing *Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996)) ("The record must demonstrate that the ALJ considered all of the evidence, but an ALJ is not required to discuss every piece of evidence").

The threshold issue in this matter is one of jurisdiction. This Office has no authority to review issues beyond its jurisdiction.[15] 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.

Voluntary Resignation/Retirement

The question of whether a resignation/retirement is voluntary or involuntary has been considered in several cases before this Office. A typical matter concerns an employee who resigns or retires and then appeals to OEA, arguing that their resignation/retirement was the result of coercion, duress or constructive discharge.[16] When determining whether a resignation/retirement was voluntary or involuntary, this Office aligns with the seminal case in the federal sector on this issue, *Christie v. United States*.[17]

"In *Christie*, the plaintiff claimed that she was wrongfully separated from the government by means of a coerced resignation. The U.S. Court of Claims held that, as a matter of law, the plaintiff's resignation was voluntary...[18] In finding that the resignation was voluntary, the Court of Claims stated [e]mployee resignations are presumed to be voluntary."[19] The Court further stated:

> "This presumption will prevail unless plaintiff comes forward with sufficient evidence to establish that the resignation was involuntarily extracted. Plaintiff had the opportunity to rebut this presumption before the CSC. . . . Duress is not measured by the employee's

[15] *See Employee v. D.C. Fire & Medical Emergency Services,* OEA Matter No. 1601-0080-24 (September 24, 2024); *Employee v. Department of Public Works,* OEA Matter No. J-0076-25, *Opinion and Order on Petition for Review* (June 4, 2026).
[16] *See Moore v. Office of the State Superintendent of Education*, OEA Matter No. J-0114-14 (September 25, 2014).
[17] *Christie v. United States*, 518 F.2d. 584 (Ct. Cl. 1975).
[18] Christie was a Veteran's preference employee of the U.S. Navy Department. She was issued an advance notice of proposed removal for cause for attempting to inflict bodily injury on her supervisor. She denied the charge. The agency issued a final decision to remove Christie, but allowed her an opportunity to accept a discontinued service retirement instead of being fired. Christie resigned and accepted the retirement benefit. Then, she filed an appeal with the U.S. Civil Service Commission ("CSC"). The CSC dismissed the appeal for lack of jurisdiction and the plaintiff appealed to the U.S. Court of Claims.
[19] *Employee v. D.C. Department of For-Hire Vehicles*, OEA Matter No. J-0041-26 Initial Decision, p.6 (August 12, 2026).

> subjective evaluation of the situation. Rather, the test is an objective one. While it is possible plaintiff, herself, perceived no viable alternative but to tender her resignation, the record evidence supports CSC's finding that plaintiff chose to resign and accept discontinued service retirement rather than challenge the validity of her proposed discharge for cause. The fact remains, plaintiff *had a choice*. She could stand pat and fight. She chose not to. Merely because plaintiff was faced with an inherently unpleasant situation in that her choice was arguably limited to two unpleasant alternatives does not obviate the involuntariness of her resignation. This Court has repeatedly upheld the voluntariness of resignations where they were submitted to avoid threatened termination for cause…"[20]

It is incumbent on the employee "to present sufficient evidence to prove that his or her [retirement] was involuntary".[21]

Here, Employee does not deny that he first resigned and later retired from the Agency. Instead, Employee argues that he was forced to resign and retire and asks this tribunal to review the circumstances surrounding these actions in determining whether OEA has jurisdiction. Agency contends that Employee made an informed and voluntary choice to retire. Agency cites that Employee decided to retire on his own timeline, set his own effective date, and consulted with individuals prior to retiring.

In review of this matter, the undersigned agrees with Agency's assertion that OEA lacks jurisdiction over this Petition. The record is clear that Employee resigned and later retired from his position. However, Employee argues that his decision to resign and retire was not "free and fully informed".[22] I find that Employee's claims that his resignation and retirement were involuntary do not meet the standard of duress or coercion set forth in *Christie*.

As established in *Christie*, "[d]uress is not measured by the employee's subjective evaluation of the situation. Rather, the test is an objective one."[23] The OEA Board has held that the "test to determine voluntariness is an objective one that, considering all the circumstances, the employee was prevented from exercising a reasonably free and informed choice."[24] In *Keyes v. D.C.*, the Court found that an involuntary resignation is made under duress when "[1] an agency imposes the terms of an employee's resignation, [2] the employee's circumstances permit no alternative but to accept, and [3] those circumstances were the result of improper acts of the agency."[25] Courts have further held "…that an employee's retirement or resignation may be

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[20] *Id.* at pp. 4-5 (quoting *Christie v. United States*, 518 F.2d. 584, 587-588 (Ct. Cl. 1975)).
[21] *Moore v. Office of the State Superintendent of Education*, OEA Matter No. J-0114-14 Initial Decision, p.3 (September 25, 2014).
[22] *Id*. at 9.
[23] *Christie v. United States*, 518 F.2d. 584, 587 (Ct. Cl. 1975).
[24] *Morris Yarborough v. Department of Public Works*, OEA Matter No. J-0022-19, *Opinion and Order on Petition for Review*, p.3 (January 14, 2020).
[25] *Keyes v. D.C.*, 372 F.3d 434, 439 (D.C. Cir. 2004) (quoting *Schultz v. United States Navy*, 810 F.2d 1133, 1136 (Fed. Cir. 1987)).

involuntary if it is induced by the employer's application of …time pressure…".[26] Here, the record establishes that the relevant dates in assessing the voluntariness of Employee's resignation and retirement are as follows:

1. On June 17, 2026, Agency informed Employee that he was being placed on administrative leave pending an investigation into June 16, 2026, allegations regarding Employee's conduct.
2. At the time of his administrative leave, Employee was employed as a Support Services Specialist.
3. On June 17, 22, 23, and 24, 2026, Employee received twelve (12) calls from his supervisor.
4. On June 25, 2026, Employee submitted his resignation effective June 24, 2026.
5. On June 26, 2026, Employee retired from the Agency after meeting with Human Capital Administration, completing Retirement Counseling, and signing the required paperwork.
6. On July 21, 2026, Employee filed his Petition.

Noticeably absent from the above timeline is the presence of any proposed or actual notice of adverse action against Employee which could support the finding that Employee resigned or retired under duress or time pressure. In *District of Columbia Metropolitan Police Dept. v. Stanley*, the D.C. Court of Appeals found that an employee involuntarily retired when given less than two hours to decide whether he would accept a demotion and he could not contact payroll to determine what effect, if any, a demotion would have on his salary and retirement benefits.[27] In *Stanley*, the Court reasoned that employee's freedom of choice was substantially undermined by "…the extremely short time frame in which he was forced to elect between retirement and demotion (or, it appeared, termination); his inability to obtain information from MPD about the financial consequences of that election; and the daunting misrepresentation…" that he could be fired at any time.[28]

Here, at the time of Employee's resignation and subsequent retirement, he was on administrative leave status pending the conclusion of the investigation. While on administrative leave, Employee continued to receive his full pay and benefits.[29] Employee was not at risk of a financial hardship. Employee was also not subject to any imminent adverse action, such as suspension or termination. The record is clear that there was no looming deadline by which Employee needed to either resign or retire before being terminated. Additionally, there is no evidence in the record to conclude that Employee believed he would be terminated at any time while the investigation was ongoing or that he could not consult with Agency personnel about his options. Therefore, I find that Employee voluntarily resigned as he was not acting under any time pressure or threat of action, and thus exercised a free and informed choice to resign/retire.

Employee's claims do not meet the standard for duress as outlined in *Keyes*. The Agency did not dictate any terms of Employee's resignation. The Agency did not create any circumstances where a reasonable person would have no other choice but to resign. Employee acknowledges that the Agency did not take any improper acts by placing Employee on administrative leave while it

[26] *D.C. Metro. Police Dep't v. Stanley*, 942 A.2d 1172, 1175 (D.C. 2008).
[27] *Id.* at 1176.
[28] *Id.* at 1178.
[29] *See* DPM Chapter 16, Section 1699.1.

investigated the June 16, 2026, allegations.[30] Courts have routinely held that "where an employee is faced merely with the unpleasant alternatives of resigning or being subject to removal for cause, such limited choices do not make the resulting resignation an involuntary act."[31] Here, Employee was never faced with any unpleasant alternatives. At the time of his resignation, Employee was faced with remaining on administrative leave pending the results of the investigation, defending himself against the allegations,[32] or choosing to separate from the Agency. Assuming he was at risk of termination after the conclusion of the investigation, this is still insufficient for a claim of duress.[33] Therefore, I find that Employee voluntarily resigned as he was not acting under duress.

Employee asserts that he was coerced into resigning by his supervisor. Employee contends that his supervisor told co-workers about the investigation and commented as to whether he could be hired by other government agencies.[34] Employee acknowledges that he was not present for these conversations and does not offer them as "independently established facts"[35]. Employee also cites a June 17, 2026 conversation where his supervisor stated that his best option was to resign.[36] Employee asserts that, later on June 17, 2026, his supervisor called him and asked what he was going to do.[37] As part of this pressure to resign, Employee provides evidence of eleven (11) calls from his supervisor between June 22 and June 24, 2026.[38] Of these eleven (11) calls, Employee only answered two (2).[39] Those two (2) calls lasted one (1) minute and 21 seconds respectively.[40] While there is no evidence in the record about the nature of those two calls, Employee implies that the purpose was to encourage him to resign. Employee argues that the statement by his supervisor and the repeated calls significantly contributed to his stress and constitute harassment; however, I find that this does not meet the standard set forth in *Christie*, *Keyes*, or *Stanley* as discussed above.

Employee does not offer any documentation to support his argument that the calls from his supervisor caused significant stress, duress, or coercion. Employee does not suggest that the calls and conversations with his supervisor were accompanied by any threat of termination that would constitute coercion.[41] He also failed to provide evidence that he asked his supervisor to stop calling him or explored means to address the alleged harassment. The record supports that Employee's supervisor provided an opinion as to what Employee's best option would be and asked how he would proceed. Unlike in *Stanley*, Employee was not under the threat of demotion or termination. Here, Employee's supervisor advised him with the option to resign and Employee made that decision eight (8) days later on his own accord. Therefore, the undersigned finds that waiting eight

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[30] Employee's Brief at 8.
[31] *Keyes v. D.C.*, 372 F.3d 434, 439 (D.C. Cir. 2004) (quoting *Schultz v. United States Navy*, 810 F.2d 1133, 1136 (Fed. Cir. 1987)). *See also D.C. Metro. Police Dep't v. Stanley*, 942 A.2d 1172, 1175 (D.C. 2008).
[32] *See Veitch v. England*, 471 F.3d 124, 128-29 (D.C. Cir. 2006) (noting that appealing an investigation is a reasonable alternative to resigning).
[33] *See Aliotta v. Bair*, 614 F.3d 556, 567 (D.C. Cir. 2010) (distinguishing an employee facing the threat of termination as opposed to the certainty of termination).
[34] Employee's Brief at 6.
[35] *Id.*
[36] *Id.* at 3.
[37] *Id.*
[38] *Id*. at Attachment 1 and 1A.
[39] *Id.*
[40] *Id.*
[41] *See Aliotta v. Bair*, 614 F.3d 556, 567 (D.C. Cir. 2010) (citing *James v. Sears, Roebuck & Co.*, 21 F.3d 989, 992-94 (10th Cir. 1994)).

(8) days to execute an option does not equal coercion even when coupled with the two (2) short calls from his supervisor. Accordingly, I find that Employee did not act under coercion in choosing to resign from the Agency.

In reviewing the circumstances preceding Employee's resignation, I find that Employee acted freely in choosing to resign from the Agency. As in *Christie*, Employee had the option to stay and challenge any findings from the investigation but chose not to do so. Employee knew that he was being investigated over a complaint concerning his conduct, that he could participate in said investigation, and that a resolution could take up to 45 days. Instead of waiting for the investigation to conclude, Employee first chose to seek other employment before later resigning and retiring. Once notified of his eligibility on June 25, 2026, Employee chose to proceed with retiring from the Agency the next day rather than resigning. Despite Employee's claim of coercion by his supervisor, the record supports that Employee perceived other alternatives before choosing to resign and retire.

This Office has routinely found resignations to be voluntary where the employee submits a resignation letter and identifies the effective resignation date.[42] Further, in accordance with District Personnel Manual ("DPM") Instruction No. 2022-16, employees may choose to voluntarily separate from their positions by either resigning or retiring. These separations are initiated by the employee and not the employing agency or personal authority. This instruction provides that a separation is deemed to be "…voluntary if the employee is free to choose; understands the transaction; is given a reasonable time to make his or her choice; and, is allowed to set the effective date of the action."[43] Here, it is undisputed that Employee initiated his separation from the Agency. Employee sent his resignation via e-mail on June 25, 2026 and titled it 'Resignation Letter'. In his resignation email, Employee stated that he sought to "terminate myself from the position of support Service Specialist as of 6/24/26" and thanked the Agency for "allowing [him] to be a part of [their] organization for 23yrs."[44] Employee had an unlimited amount of time to make a decision about his employment with the Agency as there was no deadline by which he needed to act. Further, Employee chose June 24, 2026 as the date his resignation would be effective. Thus, the record does not support Employee's claim that he was prevented from exercising a free and informed choice. In consideration of these circumstances, I find that Employee voluntarily resigned from the Agency on June 25, 2026. This Office has consistently held that it lacks jurisdiction over voluntary resignations.[45] Consequently, I find that Employee has not met his burden in proving OEA's jurisdiction in this matter.

Employee implies that the same set of circumstances should be analyzed as it relates to his retirement. OEA has consistently held that the burden lies with employees to show that they retired

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[42] *See e.g. Employee v. D.C. Department of Transportation*, OEA Matter No. J-0045-22 (June 29, 2022); *Willis v. D.C. Fire and Emergency Medical Services*, OEA Matter No. J-0043-15, *Opinion and Order on Petition for Review* (September 13, 2016); *Williams v. Department of Human Services*, OEA Matter No. J-0054-17, *Opinion and Order on Petition for Review* (April 24, 2018); *Duvic v. Department of Behavioral Health*, OEA Matter No. J-0012-15, *Opinion and Order on Petition for Review* (September 13, 2016).
[43] DPM Instructions No. I-2022-16 (October 13, 2022).
[44] Agency's Brief at Exhibit 3.
[45] *Evans v. Department of Youth Rehabilitation Services*, OEA Matter No. 1601-0055-11, *Opinion and Order on Petition for Review* (December 10, 2014).

involuntarily.[46] To make such a showing, an employee must establish that their retirement was due to the agency's coercion or misinformation upon which they relied. For the reasons stated above, I do not find that Employee was subject to coercion or misinformation when he retired. Employee's SF-50 reflects that Employee retired on June 26, 2026.[47] Further, Employee completed his retirement paperwork, including retirement counseling, on June 26, 2026. His retirement counseling included learning of his eligibility for health and insurance benefits as a retiree, when to expect his annual payout, and reaffirming the effective date of his retirement.[48] I find that the evidence does not support that Employee was subject to any calls, threats, harassment, time pressure or was suffering from mental incapacity at the time he retired. The record is clear that Employee filed his Petition after he retired from the Agency. Accordingly, I further find that Employee voluntarily retired on June 26, 2026, and, as a result, has not met his burden in proving OEA's jurisdiction over this matter. Therefore, Employee's Petition must be dismissed for lack of jurisdiction.

ORDER

It is hereby **ORDERED** that the Petition for Appeal in this matter is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

/s/ ChôNayse Sellers
ChôNayse Sellers, Esq.
Administrative Judge

[46] *Willis v. D.C. Fire and Emergency Medical Services*, OEA Matter No. J-0043-15, *Opinion and Order on Petition for Review*, p.5 (September 13, 2016).
[47] Agency's Brief at Exhibit 4.
[48] *Id*.