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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)
)
EMPLOYEE¹)
)
 v.) OEA Matter No. J-0013-24
)
)
D.C. DEPARTMENT OF FIRE-HIRE)
 VEHICLES,) Date of Issuance: November 6, 2025
)
 Agency)
)

OPINION AND ORDER
ON
PETITION FOR REVIEW

Employee worked as a Vehicle Inspection Officer with the D.C. Department of For-Hire Vehicles (“Agency”). On November 20, 2023, Agency issued a notice terminating Employee from her position.² According to Agency, Employee was placed on administrative leave on November 20, 2023. The effective date of Employee’s removal was December 4, 2023.³

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on December 4, 2023. She argued that she was in a Career Permanent status, not a probationary status, at the time of termination. Employee contended that she was hired with Agency on October 9, 2022, and her probationary status concluded on October 9, 2023. Thus, she asserted that she

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

² Employee was terminated while in her probationary period.

³ *Petition for Appeal*, p. 5 (December 4, 2023).

was a Career Service employee at the time of termination. Accordingly, she requested that she be reinstated to her position.⁴

On January 3, 2024, Agency filed its response to Employee's Petition for Appeal. It argued that Employee's probationary period was extended because she used 310 hours of Paid Family Leave ("PFL").⁵ Agency explained that Employee's original one-year probationary period was set to expire on October 9, 2023; however, pursuant to District Personnel Manual ("DPM") §§ 225.5 and 1286.9, her probationary period was extended by the duration of the paid family leave. As a result, it argued that Employee was still within her probationary period at the time of her termination. Accordingly, Agency opined that OEA lacked jurisdiction over the appeal and requested that the matter be dismissed.⁶

Before the OEA Administrative Judge ("AJ") issued her Initial Decision, she requested that the parties submit briefs on whether Employee's appeal should be dismissed for lack of jurisdiction.⁷ In her brief, Employee argued that her employment contract specified a one-year probationary period, set to conclude on October 9, 2023. During her tenure, she applied for PFL and contended that in accordance with DPM §§ 224.3 and 1286.9, a probationary employee who applies for PFL is required to enter into a one-year Continuation of Service Agreement. Employee asserted that this agreement must be signed by the employee to receive PFL hours and that it extends the probationary period based on the amount of PFL hours used. She further contended that she was not serving a probationary period at the time of her termination and was, therefore,

⁴*Id.*, p. 2.

⁵Agency argued that pursuant to District Personnel Manual ("DPM") § 1283.1, eligible District government employees are entitled to up to eight work weeks of paid family leave within a twelve-month period for a single qualifying event. It noted that Employee's work schedule included weekends, placing her on a seven-day work week schedule.

⁶ *Agency Answer*, p. 1-3 (January 3, 2025).

⁷ *Order for Briefs on Jurisdiction* (May 21, 2024).

entitled to the rights and protections of a Career Service employee.⁸

In its brief, Agency asserted that OEA lacked jurisdiction over probationary employees. It argued that Employee was designated as a probationary employee because her probationary period was automatically extended when she took PFL to care for a family member. Further, Agency opined that Employee was not entitled to notice because DPM § 225 does not mandate that any notice be given as to the extensions or completion of probationary periods.⁹

Agency contended that D.C. Human Resources (“DCHR”) published formal guidance on probationary periods through Issuance I-2021-33.¹⁰ It is Agency’s position that an agency cannot observe an employee’s job readiness for a permanent position when an employee is on PFL, so DCHR has made clear that workdays for which an employee used PFL do not count toward the completion of the probationary period.¹¹ Further, Agency noted that the use of the PFL added over seven weeks to her probationary period. Thus, it determined that Employee’s probationary period ended no earlier than November 27, 2023. As a result, Agency requested that Employee’s appeal be dismissed.¹²

⁸ *Employee Brief on Jurisdiction*, p. 2-3 (June 11, 2024).

⁹ *Agency’s Brief on Jurisdiction*, p. 3-4 (July 2, 2024).

¹⁰ According to Agency, this guidance provided that “probation offers the agency and employee the opportunity to determine a candidate’s job readiness. Probationary periods aid in deciding whether an employee’s knowledge, skills, abilities, and conduct meet the requirements for permanent employment status in the Career Service.”

¹¹ Agency explained that Employee’s tour of duty consisted of a four-day work week with a ten-hour shift.

¹² *Agency’s Brief on Jurisdiction*, p. 5-10 (July 2, 2024). The AJ issued two subsequent orders. The first requested additional briefs to specify the exact date that Employee’s probationary period ended and provide detailed calculations as to how that date was determined. *Post Status Conference Order* (September 26, 2024). The second requested the parties to submit written briefs addressing whether Employee’s position as a Vehicle Inspection Officer was obtained through open competition; the educational requirements and licensure requirements for Employee’s position as a Vehicle Inspection Officer; and the educational requirements and licensure requirements for Employee’s position as a Correctional Officer. *Order for Briefs on Jurisdiction* (January 21, 2025).

Employee argued in her briefs that she was erroneously classified as a probationary employee after transferring from the Department of Corrections to Agency as a Vehicle Inspection Officer. She explained that she already completed an eighteen-month probationary period with DOC before resigning on October 6, 2022, and under DPM § 226.2, she should not have been required to serve another since there was no break in service. Employee also claimed that she was placed on administrative leave on November 20, 2023, and improperly terminated on December 4, 2023. *Employee Brief on Post Status Conference*, p. 1-3 (October 25, 2024). According to Employee, her termination was based on a misclassification of her employment status. *Order for Additional Information*, p. 1-3 (February 25, 2025).

On July 1, 2025, the AJ issued her Initial Decision. She agreed with Agency and held that Employee was required to complete a new probationary period when she accepted the Vehicle Inspection Officer position.¹³ The AJ reasoned that Employee's position with Agency had a different licensure, certification, or other similar requirement as provided in DPM § 226.2(c) compared to her previous position as a Correctional Officer. Additionally, the AJ found that Employee was still in a probationary status as of her effective date of termination, December 4, 2023. She found that Employee was hired on October 9, 2022, and was subject to a one-year probationary period and her probationary period was set to conclude on or around October 9, 2023. However, in May of 2023, Employee was granted PFL and ultimately used 310 hours of PFL between June 2023 and November 2023. The AJ opined that Employee's work schedule and calculation of PFL hours extended her probationary period by the length of the paid family leave, pursuant to DPM § 225.5. Moreover, she agreed that DCHR Issuance I-2021-33 provided further guidance and clarified that any administrative leave provided prior to termination does not count toward the completion of the probationary period. The AJ determined that use of administrative leave from November 20, 2023, to December 4, 2023, had the effect of tolling the calculation of days towards Employee's probationary period, and extended her period beyond November 29,

In its briefs, Agency contended that Employee failed to submit calculations consistent with the AJ's order. It maintained that Employee's Vehicle Inspector Officer appointment was obtained through open competition for a position fundamentally different from her prior role at DOC. In consultation with DCHR, it calculated Employee's probationary period week by week, determining that seven weeks of PFL delayed her probationary period until the week of November 27, 2023. *Agency's Supplemental Brief on Jurisdiction*, p. 3-7 (November 14, 2024). Agency opined that a Grade 8 Correctional Officer's duties involve the custody, supervision, and rehabilitation of offenders, while a Vehicle Inspection Officer I, classified under Series 1801, performs inspection, investigation, and compliance. Agency explained that when there is a position change, such as a career-ladder promotion, a new probationary period is not required. However, under DPM § 226.2, when an employee initiates a career change through open competition for a position with different qualifications or certifications, a new probationary period is required. Therefore, Agency maintained that the distinct classifications and requirements support its contention that it was appropriate for Employee to serve a new probationary period under DPM § 226.2. *Agency's Second Supplementary Brief on Jurisdiction*, p. 3-11 (March 18, 2025).

¹³ The AJ noted that Employee did not have a break in service of three days or more and provided that Employee began employment with Agency the next business day.

2023.¹⁴

Employee filed a Petition for Review with the OEA Board on July 25, 2025. She argues that the AJ's decision was not supported by substantial evidence because she improperly relied on DPM § 226.2(c) instead of considering DPM § 814.3, which provides that an employee who successfully serves a probationary period during an initial appointment is not required to serve another probationary period. Employee also asserts that the AJ failed to hold an evidentiary hearing. Therefore, she requests that the Initial Decision be reversed; that she be reinstated with full back pay and benefits; and that the adverse action be removed from her personnel file.¹⁵

On August 20, 2025, Agency filed its response to Employee's Petition for Review. It argues that the AJ correctly relied on DPM § 226 and determined that OEA does not have jurisdiction over probationary employees. Agency asserts that Employee was on notice of her need to serve a new probationary period. Additionally, it notes that pursuant to a 2021 rulemaking, DPM § 814 was repealed. As a result, Agency opines that the AJ's legal conclusion that the two positions, Vehicle Inspection Officer and the Correctional Officer, had substantially different qualifications and are classified as a different line of work is accurate. Accordingly, it requests that Employee's Petition for Review be denied.¹⁶

As it relates to Employee having to serve another probationary period, DPM § 226.2(c) provides that "an employee who once satisfactorily completed a probationary period in the Career

¹⁴ She opined that Agency correctly implemented DPM § 225, which governs completing probation. The AJ determined that an agency cannot observe an employee while they are on extended leave. Thus, she held that Agency was within its authority to extend Employee's probationary period by the amount out PFL used, which restored Agency's ability to observe Employee for the full amount of the probationary period. As it related to the Continuation of Service Agreement, the AJ explained that the purpose of the agreement was to reimburse the District for paid leave granted to a probationary employee, if that employee uses PFL and voluntarily leaves employment prior to the end of the probationary period. As a result, the matter was dismissed for lack of jurisdiction. *Initial Decision*, p. 6-12 (July 1, 2025).

¹⁵ *Petition for Review of Initial Decision*, p. 3-8 (July 25, 2025).

¹⁶ *Agency's Answer to Petition for Review*, p. 7-11 (August 20, 2025).

Service shall be required to serve another probationary period when the employee is appointed through open competition to a position with different licensure, certification, or other similar requirements.” There is no definition provided for “similar requirements.” However, OEA has previously considered if the positions are in similar or different job series to determine if a second probationary period is required. In *Employee v. D.C. Commission on Judicial Disabilities and Tenure*, OEA Matter No. J-0023-25 (August 25, 2025), the AJ held that because two positions were in different series, a new probationary period was required. In the current case, Employee previously held a position as a Correction Officer, which is in series 0007. However, the Vehicular Inspection Officer position was in series 1801.¹⁷ Thus, the positions are in different series.

As Agency provided, a probationary period is to help agencies determine if an employee is suitable for the role and if they have the knowledge, skills, and abilities to serve in the position for which they were hired. DPM § 223.1 provides that “an agency shall utilize the probationary period as fully as possible to determine the employee’s suitability and qualifications as demonstrated by the employee’s knowledge, skills, and abilities as well as his or her conduct.” In *Employee v. D.C. Commission on Judicial Disabilities and Tenure*, the AJ found that the difference in requirements and job duties was substantial enough to require a new probationary period. In the current case, the AJ thoroughly outlined the substantial differences in knowledge and duties between Employee’s previous position as a Correctional Officer and that of a Vehicle Inspection Officer.¹⁸ This Board agrees with the AJ’s assessment. Therefore, Employee was required to serve another probationary period.¹⁹

¹⁷ Agency’s Second Supplementary Brief on Jurisdiction, Exhibit #1 (March 18, 2025).

¹⁸ Initial Decision, p. 7 (July 1, 2025).

¹⁹ As for Employee’s argument that DPM § 814.3 was applicable and should have been considered by the AJ, this Board notes that Chapter 8 of the DPM applies only to Metropolitan Police Department and Fire and Emergency Medical Services employees. Employee worked for the D.C. Vehicle For-Hire and was not employed by the police or fire departments; thus, this section is not applicable in this matter. Moreover, as Agency asserted, section 814.3

Employee's final argument is that the AJ failed to conduct an evidentiary hearing. After conducting a status conference and ordering briefs on two issues, the AJ determined that an evidentiary hearing was not warranted.²⁰ The D.C. Court of Appeals held in *Dupree v. D.C. Office of Employee Appeals*, 36 A.3d 826 (D.C. 2011), that a hearing is necessary when issues are raised that require clarification and cannot be decided solely on the documentary evidence in the administrative record. This Board agrees with the AJ's assessment that a decision could be decided on the documents submitted in this case. We find no additional issues that required clarification in this matter. Therefore, we affirm the AJ's decision not to conduct a hearing.

In accordance with DPM §§ 226.2(c) and 223.1, a second probationary period was appropriate in this case. Pursuant to DPM § 227.4, "separation from government service during a probationary period is neither appealable nor grievable." Furthermore, the AJ's decision not to conduct an evidentiary hearing is affirmed. Accordingly, Employee's Petition for Review is denied.

was repealed and is, therefore, an inapplicable regulation. *Agency Answer to Petition for Review*, p. 7-8 (August 20, 2025).

²⁰ *Id.* at 2.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

FOR THE BOARD:

Pia Winston, Chair

Arrington L. Dixon

LaShon Adams

Jeanne Moorehead

Either party may appeal this decision on Petition for Review to the Superior Court of the District of Columbia. To file a Petition for Review with the Superior Court, the petitioning party should consult Superior Court Civil Procedure Rules, XV. Agency Review, Rule 1.