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

In the Matter of:)	
)	
EMPLOYEE ¹)	OEA Matter No.: J-0024-25
)	
)	
v.)	Date of Issuance: August 13, 2025
)	
D.C. DEPARTMENT OF HUMAN SERVICES,)	NATIYA CURTIS, Esq.
Agency)	Administrative Judge
)	
Employee, <i>Pro Se</i>		
Meghan Robins, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL HISTORY

On February 18, 2025, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or “Office”) contesting the D.C. Department of Human Services’ (“Agency” or “DHS”) decision to terminate her from her position as a Program Support Specialist, effective February 7, 2025. OEA issued a letter dated February 19, 2025, requesting that Agency file an Answer on or before March 21, 2025. Agency filed its Answer and Motion to Dismiss Employee’s Petition for Appeal for Lack of Jurisdiction on March 18, 2025. Agency asserted therein that this Office lacks jurisdiction over this matter because Employee was in probationary status at the time of her termination.²

This matter was assigned to the undersigned Administrative Judge (“AJ”) on March 18, 2025. On March 21, 2025, the undersigned issued an Order for Briefs on Jurisdiction requiring Employee to address the jurisdiction issues raised by Agency in its Answer and Motion to Dismiss. Employee’s brief was due by or before April 21, 2025. Agency’s reply brief was due by or before May 19, 2025. Employee did not submit her brief as required. Thus, on May 1, 2025, the undersigned issued an Order for Statement of Good Cause to Employee for her failure to submit a response pursuant to the March 21, 2025, Order. Employee was required to submit her statement and brief to the undersigned and Agency’s representative by May 13, 2025. Employee did not comply with the May 13, 2025, Order.

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

² Agency’s Answer and Motion to Dismiss Employee’s Petition for Appeal for Lack of Jurisdiction (March 18, 2025).

On May 21, 2025, Employee contacted OEA by email to inquire about the status of her appeal, citing that she had not received any additional correspondence from this Office since she filed her Petition for Appeal. I contacted Employee by email, and provided courtesy copies of the March 21, 2025, and May 1, 2025, Orders. Employee cited by email that she had a new mailing address. The undersigned advised Employee to update her address with this Office as soon as possible.³ I also informed Employee that I would extend the deadline to submit her brief and statement of good cause. Thus, on May 23, 2025, the undersigned issued an additional Order for Brief and Statement of Good Cause to Employee. Employee's brief and statement of good cause were due by June 2, 2025. Agency's reply brief was due by June 17, 2025. Both parties submitted their briefs, as required.

On June 17, 2025, Employee emailed the undersigned and Agency with questions regarding Agency's Response to Employee's Brief on Jurisdiction and Motion to Dismiss. The undersigned replied to the parties and explained to Employee that substantive questions could not be addressed via email. The undersigned offered to schedule a Status Conference to allow the parties to address any questions regarding the appeals process in this matter. On June 30, 2025, Employee responded via email and affirmed that she was requesting a Status Conference. On July 1, 2025, the undersigned issued an Order for Status Conference and scheduled the conference for July 8, 2025. Both parties appeared for the Status Conference. 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:

³ Employee updated this Office with her new address on March 21, 2025.

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 she was not appropriately terminated. In her Petition for Appeal, Employee argues that Agency conducted a performance evaluation four (4) months after her employment began and avers that the details in the evaluation were inaccurate and unjust and ultimately led to her termination.⁴ Employee asserts that her direct supervisor provided minimal communication, guidance and compassion, which contributed to her feeling isolated and stressed in the workplace.⁵ Employee also cited areas where she believed she excelled in her position as a Program Support Specialist.

Agency's Position

Agency asserts in its Answer and Motion to Dismiss Employee's Petition for Appeal for Lack of Jurisdiction that this Office lacks the jurisdiction to adjudicate this matter. Agency argues that Employee was in a probationary status at the time of her termination, and therefore, OEA has no jurisdiction over this appeal.⁶ Agency avers that Employee was hired as a Program Specialist on May 20, 2024. Agency avers that Employee was subject to a one-year probationary period and signed an Offer letter acknowledging her acceptance of the terms of her appointment.⁷ Agency further contends that Employee has not offered any evidence to counter that she was in a probationary period at the time of her termination.⁸ Agency further asserted that this termination is not appealable because separation from government service during a probationary period is neither appealable nor grievable.⁹

Analysis

The threshold issue in this matter is one of jurisdiction. This Office has no authority to review issues beyond its jurisdiction.¹⁰ 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;

⁴ Employee's Petition for Appeal, p 2. Feb 18, 2025; *See also* Employee's Brief on Jurisdiction, p. 2 (June 2, 2025).

⁵ Employee's Brief on Jurisdiction, p 1, (June 2, 2025).

⁶ Agency's Answer and Motion to Dismiss, pp 1-2 (March 18, 2025).

⁷ *Id.*

⁸ Agency's Reply Brief, p. 5 (June 17, 2025)

⁹ *Id.* at p. 8

¹⁰ *See, Banks v. District of Columbia Public Schools*, OEA Matter No. 1602-0030-90, *Opinion and Order on Petition for Review* (September 30, 1992).

- (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 still in a probationary period at the time of termination.¹¹ Chapter 2, § 227.4 of the District Personnel Manual ("DPM") states that a termination during an employee's probationary period is neither appealable nor grievable. Consistent with the DPM, this Office has consistently held that an appeal by an employee serving in a probationary status must be dismissed for lack of jurisdiction.¹² Based on the record, the undersigned finds that Employee was hired on May 20, 2024, and terminated on February 7, 2025. Accordingly, I find that Employee was approximately (9) months into her one-year (1) probationary period at the time of her termination.¹³ Notably, 'Termination During Probationary/Trial Period' is listed as the nature of the action for termination on her SF-50.¹⁴ Further, in her Petition, Employee also acknowledges that she was in a probationary period, and had worked at Agency for only nine (9) months.¹⁵ Consequently, I find that this Office lacks jurisdiction over Employee's appeal.

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, any argument that an employee in their probationary period can appeal a termination during a probationary period is not only in contradiction to § 227.4 of the DPM, but also the purpose of the probationary period, which is to evaluate an employee's conduct and performance on the job to determine job readiness to meet the requirements of permanent employment status in the Career Service.¹⁶ Accordingly, the undersigned finds that Employee's probationary 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 the Petition for Appeal in this matter is **DISMISSED** for lack of jurisdiction.

FOR THE OFFICE:

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

¹¹ *Infra* note 13.

¹² See e.g., *Day v. office of the People's Counsel*, OEA Matter No. J-0009-94 *Opinion and Order on Petition for Review* (August 19, 991); *Alexis Parker v. Department of Health*, OEA Matter No. J-0007-11 (April 28, 2011).

¹³ Employee's initial and final SF-50s submitted in Agency's Response to Employee's Brief on Jurisdiction (June 17, 2025).

¹⁴ *Id.*

¹⁵ Employee's Petition for Appeal, p. 2 (February 18, 2025).

¹⁶ DCHR Issuance on Probationary Periods 1-2021-33 (2021).