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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
EMPLOYEE)	Matter No. 1601-0031-21
)	Date of Issuance:
v.)	December 8, 2021
)	
D.C. FIRE & EMERGENCY)	Joseph E. Lim, Esq.
MEDICAL SERVICES DEPARTMENT,)	Senior Administrative Judge
Agency)	
Andrea Comentale, Esq., Agency Representative)	
Indea Morant, Employee <i>pro se</i>		

INITIAL DECISION

PROCEDURAL BACKGROUND

On May 21, 2021, Employee filed a petition for appeal with the Office of Employee Appeals (“OEA” or the “Office”) contesting D.C. Fire and Emergency Medical Services’s (“FEMS” or the “Agency”) action of suspending her for seventy-two hours from service for conduct unbecoming an employee. This matter was assigned to the undersigned on October 1, 2021. Thereafter, on October 13, 2021, I issued an order requiring Employee to respond to Agency’s motion to dismiss for lack of jurisdiction by October 20, 2021. To date, Employee has failed to respond. After considering the parties submission along with other relevant documents of record, I have determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

As will be explained below, the jurisdiction of this Office has not been established.

ISSUE

Whether this Office has jurisdiction over this matter.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

Title 1, Chapter 6, Subchapter VI of the D.C. Official Code (2001), a portion of the Comprehensive Merit Protections Act (hereinafter “CMPA”), sets forth the law governing this

Office. D.C. Official Code § 1-606.03 (“Appeal procedures”) states in pertinent part that:

(a) An employee may appeal a final agency decision affecting a performance rating which results in removal of the employee (pursuant to subchapter XIII-A of this chapter), an adverse action for cause that results in removal, reduction in force (pursuant to subchapter XXIV of this chapter), reduction in grade, placement on enforced leave, or suspension for 10 days or more (pursuant to subchapter XVI-A of this chapter) to the Office upon the record and pursuant to other rules and regulations which the Office may issue. Any appeal shall be filed within 30 days of the effective date of the appealed agency action.

The above referenced career service rights conferred by the CMPA may be exercised by aggrieved career and educational service employees of the District of Columbia government. It is well-settled that OEA lacks jurisdiction over suspensions less than ten days. *Burton v. D.C. Fire & Emergency Services Department*, OEA Matter No. 1601-0156-09 (November 7, 2011), (OEA lacked jurisdiction over employee’s six-day suspension); *Jordan v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0003-06, *Opinion and Order on Petition for Review* (July 24, 2008), (OEA lacked jurisdiction over an eight day suspension with two days held in abeyance).

Relative to the instant matter, I find that OEA lacks the authority to adjudicate an appeal of a suspension that is less than ten days. Here, Agency argued and Employee does not deny that she only served seventy-two hours or three days of her suspension. I find that the days of suspension served does not meet the threshold for conveying OEA’s jurisdiction over this matter. Therefore, I conclude that I must dismiss this matter for lack of jurisdiction.

ORDER

Based on the foregoing, it is hereby ORDERED that this matter be DISMISSED for lack of jurisdiction.

FOR THE OFFICE:

Joseph E. Lim, Esq.
Senior Administration Judge