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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
WENDELL ALLEN,)	
Employee)	OEA Matter No. J-0153-11
)	
v.)	Date of Issuance: September 26, 2011
)	
UNIVERSITY OF THE DISTRICT OF COLUMBIA,)	MONICA DOHNJI, Esq.
Agency)	Administrative Judge
)	
Wendell Allen, Employee, <i>pro se</i>		
Andrea M. Bagwell, Esq., Agency Representative		

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On July 29, 2011, Wendell Allen (“Employee”) filed a petition for appeal with the Office of Employee Appeals (“OEA”) contesting the University of the District of Columbia’s (“Agency”) decision to suspend him for five (5) days for being absent without leave while on leave restriction. Agency was notified on August 05, 2011, of Employee’s petition for appeal and on September 6, 2011, Agency filed a Motion to Dismiss Employee’s appeal for lack of jurisdiction¹. This matter was assigned to me on September 21, 2011. Because this matter could be decided on the basis of the documents of record, no proceedings were conducted. The record is closed.

JURISDICTION

The jurisdiction of this Office, pursuant to *D.C. Official Code, § 1-606.03 (2001)*, has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

ANALYSIS AND CONCLUSION

The threshold issue in this matter is one of jurisdiction. This Office’s jurisdiction is conferred upon it by law, and was initially established by the District of Columbia Comprehensive Merit Personnel

¹ Agency referred to this matter as OEA Matter No. 1601-0154-11 instead of J-0153-11 in its Motion to Dismiss.

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 OPRAA confer jurisdiction on this Office to hear appeals, with some exceptions. According to 6-B of the District of Columbia Municipal Regulation (“DCMR”) § 604.1², 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.

Here, Employee, a Police Officer, was suspended for five (5) days effective July 30, 2011, for being absent without leave while he was on leave restriction. While the suspension resulted from an adverse action for cause, the suspension was for less than 10 days. And as such, this Office does not have jurisdiction over Employee’s appeal. For this reason, the petition for appeal must be dismissed.

ORDER

It is hereby **ORDERED** that Agency’s Motion to Dismiss is **GRANTED**: and it is

FURTHER ORDERED, that Employee’s Petition is **DISMISSED**.

FOR THE OFFICE:

MONICA DOHNJI, Esq.
Administrative Judge

² See also, Chapter 6, §604.1 of the District Personnel Manual (“DPM”) and OEA Rules.