

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
VELERIE JONES-COE)	
Employee)	
v.)	OEA Matter No.: 1601-0088-99
)	
DEPARTMENT OF HUMAN SERVICES)	Date of Issuance: July 23, 2009
Agency)	

GENERAL COUNSEL'S ORDER
ON
COMPLIANCE

Velerie Jones-Coe (“Employee”) worked as a Staff Assistant with the Department of Human Services (“Agency”). Employee was terminated from her position for inexcusable absence without leave.

Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on April 13, 1999. On June 17, 2002, an OEA Administrative Judge issued an Initial Decision in which he ordered Agency to return Employee to her position and restore any lost pay and benefits. The Administrative Judge determined that Agency had failed to commence the adverse action process within the time frame required by the law that was in effect at that time. Agency did not appeal that decision thereby allowing the Initial Decision to become final by operation of law.

Thereafter, Employee filed a motion with the Administrative Judge asking that he order Agency to comply with the June 17, 2002 decision. On October 10, 2002 the Administrative Judge issued an Addendum Decision on Compliance. In that decision the Administrative Judge determined that Employee's motion was premature. He arrived at that conclusion based on the fact that Employee was receiving disability payments at that time. The relevant law prohibits an employee from receiving his or her salary while simultaneously receiving disability payments. Furthermore, Employee had informed the Administrative Judge and Agency that she was not physically capable of returning to her duties. Based on these circumstances, the Administrative Judge concluded that Agency could not reinstate Employee because she was currently disabled from performing any type of work and furthermore, Employee had not submitted any medical documentation stating that her treating physician had cleared her to return to work. The Administrative Judge stated in this decision that if and when Employee was medically cleared to return to work and submitted the necessary documentation, then Agency would be bound by the June 17, 2002 Initial Decision. Neither party appealed the October 10, 2002 decision.

On September 3, 2008, Employee filed a second motion for compliance. On March 10, 2009, the Administrative Judge issued a Second Addendum Decision on Compliance. The Administrative Judge found that Agency had not complied "with the OEA's Final Decision." He then certified the matter to the General Counsel's Office for enforcement.

According to D.C. Official Code § 1-606.02(a)(6), this Office has the authority to "[o]rder any agency or employee of the government of the District of Columbia to comply with an order or decision issued by the Office under the authority of this chapter

and to enforce compliance with the order or decision.” Therefore, Agency is hereby ordered to submit the following to the Office of the General Counsel by the close of business on August 13, 2009:

Documents verifying that Agency has complied with the final decision of this Office. Such documentation must demonstrate that it restored all of Employee’s back pay and benefits from May 26, 2005 (the date on which Employee’s treating physician released her to return to work) to October 14, 2007 (the date on which Employee did in fact return to work).

SHEILA G. BARFIELD, Esq.
General Counsel