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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
GERALDINE TALLEY HOBBY,)	
Employee)	OEA Matter No. J-0100-14
)	
v.)	
)	Date of Issuance: March 29, 2016
D.C. PUBLIC SCHOOLS,)	
Agency)	
)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Geraldine Talley Hobby (“Employee”) worked as an Art Teacher with D.C. Public Schools (“Agency”). Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on July 21, 2014. In her petition, she provided that she was involved in a car accident on September 30, 1986, while en route to a Parent-Teacher Association meeting. Thereafter, on February 22, 1990, she sustained two slip and fall accidents that were determined to be work-related injuries. Employee returned to work on April 4, 1990, but she used her leave until the last day of school, which was June 25, 1990. According to Employee, she was subsequently terminated on May 15, 1995. However, the termination was retroactive to May 4, 1990. Employee requested that OEA reinstate her to her position with restoration of her federal civil

service benefits.¹

The OEA Administrative Judge (“AJ”) issued an order requesting jurisdictional briefs from both parties.² On August 22, 2014, Agency filed its response to Employee’s Petition for Appeal. It provided that Employee did sustain on the job injuries on the dates she provided in her petition. Agency contended that, as a result of the injuries, Employee applied for and received Worker’s Compensation benefits until 1997. Agency explained that in 1997 Employee also applied for and received a refund of her retirement contributions. Agency asserted that after being on Worker’s Compensation for more than two years, Employee was terminated from her position. It reasoned that because Employee was terminated in the 1990s, Employee’s Petition for Appeal was untimely. Thus, Agency requested that Employee’s case be dismissed for lack of jurisdiction.³

The AJ issued her Initial Decision on August 26, 2014. She held that Employee’s Petition for Appeal was not filed within thirty days from the effective date of the appealed action.⁴ The AJ found that Employee was terminated on May 4, 1992; however, she did not file her appeal until more than twenty years later. Additionally, she opined that Employee failed to provide a copy of Agency’s final decision. Accordingly, the AJ dismissed Employee’s appeal due to lack of jurisdiction.⁵

On September 3, 2014, Employee submitted a letter addressed to the AJ which provided that she was unaware of the order requesting jurisdictional briefs, but she was in the process of preparing her brief. The letter also noted that her year of termination was 1990, not 1992, as the

¹ *Petition for Appeal*, p. 1-4 (July 21, 2014).

² *Order Requesting Briefs* (July 31, 2014). Employee’s brief was due by August 15, 2014, and Agency’s brief was due by August 22, 2014.

³ *District of Columbia Public Schools’ Response to Jurisdictional Issue*, p. 1-3 (August 22, 2014).

⁴ The AJ noted that at the time of Employee’s termination, OEA rules required that appeals be filed within fifteen days.

⁵ *Initial Decision* (August 26, 2014).

AJ cited in her Initial Decision.⁶ On September 30, 2014, Employee filed a request for additional time to submit her brief and a Petition for Review.⁷

In her Petition for Review, Employee contends that she was terminated from Agency because she sustained a work-related injury. She explains that she did not file an appeal with OEA because no appeal documents were attached to her “fraudulent termination of employment.” Moreover, Employee believes that her Worker’s Compensation Disability benefits were wrongfully terminated. Her petition went on to raise several questions regarding her Worker’s Compensation and retirement benefits.⁸

On April 24, 2015, Agency filed its response to Employee’s Petition for Review. It argues that Employee’s petition failed to address OEA’s jurisdiction and her untimely appeal. Therefore, it requests that the Initial Decision be upheld.⁹

OEA was given statutory authority to address this appeal in D.C. Official Code §1-606.03(a). This statute provides that:

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 grade, or suspension for 10 days or more (pursuant to subchapter XXIV of this chapter), or a reduction-in-force (pursuant to subchapter XXIV of this chapter) to the Office upon the record and pursuant to other rules and regulations which 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.

Similarly, OEA Rule 604.2 provides that “an appeal . . . must be filed within thirty (30) calendar days of the effective date of the appealed agency action.” Moreover, the D.C. Court of Appeals

⁶ *Letter Regarding Jurisdictional Brief* (September 3, 2014).

⁷ *Request for Extension* (September 30, 2014) and *Petition for Review* (September 30, 2014).

⁸ *Id.* After filing her Petition for Review, Employee filed subsequent documents where she raised a series of questions regarding the procedure that OEA follows.

⁹ *District of Columbia Public Schools’ Response to Petition for Review*, p. 2-3 (April 24, 2015).

held in *District of Columbia Public Employee Relations Board v. District of Columbia Metropolitan Police Department*, 593 A.2d 641 (D.C. 1991) that “the time limits for filing appeals with administrative adjudicative agencies, as with courts, are mandatory and jurisdictional matters.”¹⁰

In the current case, the effective date of Employee’s termination appears to be in dispute. Employee contends that she was terminated on May 4, 1990. However, Agency provides that Employee’s termination occurred on May 4, 1992. The date is inconsequential to this Board because even if we accepted the latter date as the effective date of termination, Employee’s appeal is still untimely. Employee filed her Petition for Appeal on July 21, 2014. Thus, the appeal was filed either twenty-two or twenty-four years after her effective termination date. This is well past the thirty-day deadline. Because the filing deadline is mandatory, this Board does not have the authority to waive the requirement. Accordingly, Employee’s Petition for Review is denied.

¹⁰ Also see *District of Columbia Public Employee Relations Board v. District of Columbia Metropolitan Police Department*, 593 A.2d 641, 643 (D.C. 1991) (citing *Woodley Park Community Association v. District of Columbia Board of Zoning Adjustment*, 490 A.2d 628, 635 (D.C.1985); *Thomas v. District of Columbia Department of Employment Services*, 490 A.2d 1162, 1164 (D.C.1985); *Gosch v. District of Columbia Department of Employment Services*, 484 A.2d 956, 958 (D.C.1984); and *Goto v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 917, 923 (D.C.1980)).

ORDER

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

FOR THE BOARD:

Sheree L. Price, Vice Chair

Vera M. Abbott

A. Gilbert Douglass

Patricia Hobson Wilson

This decision of the Office of Employee Appeals shall become the final decision 5 days after the issuance date of this order. 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.