

CAREER SERVICE BOARD, CITY AND COUNTY OF DENVER, STATE OF COLORADO

Appeal No. 127-08 A.

FINDINGS AND ORDER

IN THE MATTER OF THE APPEAL OF:

THOMAS CULLEN,

Appellant/Petitioner,

vs.

DENVER SHERIFF'S DEPARTMENT, DEPARTMENT OF SAFETY, Agency, and the
City and County of Denver, a municipal corporation,

Agency/Respondent.

This matter is before the Career Service Board on Agency's Motion to Dismiss Appellant's Petition for Review. The Board has reviewed and considered the full record before it and **DISMISSES** the Petition for Review on the grounds outlined below.

FINDINGS

Career Service Rule (CSR) 19-62 establishes certain procedural requirements for filing a petition for review with the Career Service Board. This rule provides, in pertinent part:

A petition for review shall be filed with the Board at the Personnel Director's office in the Career Service Authority (CSA) within fifteen (15) calendar days after the date of mailing of the Hearing Officer's decision. If the due date falls on a day the CSA is not open for business, the due date shall be construed as the next business day.

The parties agree that the deadline for filing the petition was Tuesday, April 28, 2009. Appellant filed his petition for review by an email sent to the CSA Hearing Office on April 28, 2009, at 5:06 pm. (Exhibit A, attached to the Agency's Motion to Dismiss). The Board notes that Appellant is represented by counsel.

On April 29, 2009, the Agency filed a motion to dismiss the petition for review on the grounds that the appeal period ended at the close of business, or 5:00 p.m. on April 28th, and

therefore the filing at 5:06 p.m. was untimely. In response to the motion, Appellant argues that CSR 19-62 does not contain a close of business deadline and he did not have notice that a time restriction applied to the filing of his petition.

Technically, Appellant is correct; CSR 19-62 does not contain an explicit close of business deadline for the last day of the appeal period. However, the rule is explicit in requiring that the filing shall be made "with the Board at the Personnel Director's office." Here, Appellant filed his petition with the CSA Hearing Office. There is no indication in the record that he filed a petition for review at the Personnel Director's office within the fifteen day appeal period. Accordingly, Appellant's petition was not timely filed and the Board is without jurisdiction to hear his appeal.

ORDER

IT IS THEREFORE ORDERED that Appellant's Petition for Review is **DISMISSED** with prejudice.

SO ORDERED by the Board on May 21, 2009, and documented this
1st day of June, 2009.

BY THE BOARD:



Luis Toro, Co-Chair

Board Members Concurring:

Felicity O'Herron
Tom Bonner
Patti Klinge