

**HEARINGS OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**

Appeal No. 64-05

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

JOHN HERZOG, Appellant,

Agency: Department of Environmental Health, and the City and County of Denver,
a municipal corporation.

On June 15, 2005, the Hearings Officer issued an Order to Show Cause which ordered the Appellant to state reasons why this appeal should not be dismissed for lack of subject matter jurisdiction. The Appellant filed his Response in accordance with the Hearings Officer's Order granting a continuance to file the same. The Agency responded timely on July 22, 2005.

The basis of the Order to Show Cause was the Agency's issuance of a verbal reprimand which is not appealable under the Career Service Rules. Career Service Rule 16-40 C. states "[a] verbal warning may not be grieved or appealed." The Appellant responds the reprimand was in fact a written reprimand, and therefore appealable. As grounds for his conclusion, the Appellant states "if the verbal reprimand...were filed with the CSA, the Hearing Officer will have jurisdiction. The first part of the Appellant's statement, is hypothetical, and not proven or shown; nor does the conclusion follow that the requirement to file a written reprimand, would transform a verbal reprimand into a written one if it were filed. Moreover the Appellant continued 'the actual notification of the verbal reprimand was not filed with the CSA...' effectively negating his hypothetical.

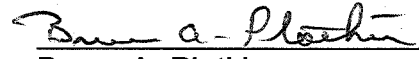
The Appellant then, surprisingly, argues his supervisor circumvented "the usual procedure" for a written reprimand, by noting the verbal reprimand in a behavior expectations letter which was filed in his personnel file. Thus, according to the Appellant, if the verbal reprimand were handled according to the usual procedure, he should have received a written reprimand instead of a verbal reprimand. The Hearings Officer declines the Appellant's inferred invitation to augment the degree of discipline against him.

Finally, the Appellant concludes because the verbal reprimand was mentioned in the behavior expectations letter, and the letter was filed, that transforms a verbal to a written reprimand. Again, the Appellant seems to argue for his receiving a higher degree of discipline only for the purpose of being able to appeal. There is simply no

justification for his conclusion, and the Hearings Officer is not empowered to augment the degree of discipline assessed to an employee.

For these reason, the Hearings Officer finds the Appellant has not shown cause why this appeal should not be dismissed for lack of jurisdiction. Consequently, this appeal is DISMISSED WITH PREJUDICE.

DONE this 26th day of July, 2005.



Bruce A. Plotkin
Hearing Officer
Career Service Board

CERTIFICATE OF MAILING

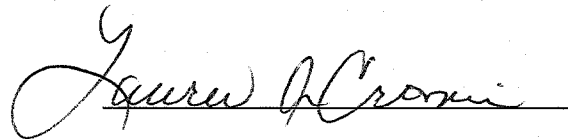
I hereby certify that I have forwarded a true and correct copy of the foregoing **ORDER DISMISSING APPEAL** by depositing same in the U.S. mail, postage prepaid, this 27th day of July, 2005, addressed to:

Mr. John Herzog
8223 S. Quebec St. #207
Englewood, CO 80112

Scott F. Reese, P.C
795 W. Birch Ct.
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Louisville, CO 80027

I further certify that I have forwarded a true and correct copy of the foregoing **ORDER DISMISSING APPEAL**, by depositing same in the interoffice mail, this 27th day of July, 2005 addressed to:

Mindi Wright, Esq.
City Attorney's Office
Employment Law Section
201 West Colfax Avenue Dept 1108
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Lauren A. Cronin