

ORDER ON DISCOVERY REQUEST AND RESETTING HEARING ON REMAND

IN THE MATTER OF THE APPEAL OF:

GREGORY HILL, Appellant,

vs.

TECHNOLOGY SERVICES,

and the City and County of Denver, a municipal corporation, Agency.

On Jan. 11, 2011, Appellant filed a motion to re-set the hearing in response to the Career Service Board order of remand to the Hearing Office. Appellant also moved for an order on his pending motions. The Agency responded by requesting that the hearing be set between Mar. 21 and Apr. 15, 2011.

Appellant Gregory Hill filed this appeal under CSR § 19-10 A.2. based on the Agency's July 2010 denial of his age discrimination and retaliation complaints. The hearing originally set for Oct. 1, 2010 was vacated and the appeal stayed by the filing of the Petition for Review which challenged the order denying the Agency's motion to dismiss. On Jan. 7, 2011, the Board denied the petition and ordered the matter remanded back to the Hearing Office.

On Sept. 14, 2010, before the appeal was stayed based on the Petition for Review, Appellant requested reconsideration of the order denying his Aug. 20th request for discovery of the documents filed by the Agency in Appellant's EEOC charge of discrimination. Appellant also requested the "complete recording and all physical or electronic records of September 14, 2009 CSA board meeting when the TS reorganization plan was approved." [Appellant's request for discovery, filed Aug. 20, 2010.] The Agency did not respond to these requests.

1. Request for City's Response to EEOC Charge of Discrimination

This discovery request was initially denied because the only discrimination complaint shown in the record was internal. Appellant responded to that denial by stating that he did file a charge with the EEOC. The Agency does not contest that statement. The documents may assist Appellant in the discrimination claim made in this appeal, and therefore, the request is granted.

2. Request for Recording of Sept. 14, 2009 CSB Hearing

Appellant seeks the recording of the CSB hearing at which the Agency's reorganization plan was approved and/or its appropriation account was deconsolidated. The appeal challenges the Agency's creation of the Enterprise Business Applications (EBA) group as segregation by age, and Appellant's assignment into that unit as age discrimination. Neither party has indicated whether or how the board's action affected the Agency's creation of the EBA. However, since consolidation decisions require a showing that "there is a high correlation between the activities of one unit of the department and others proposed to be consolidated", the recording may produce some discoverable evidence on the issues surrounding establishment of the EBA. CSR § 14-42 b).

Order Re-Setting Hearing

Pursuant to the Career Service Board's Findings and Orders issued January 7, 2011, this matter is re-set for hearing on:

Monday, March 21, 2011, 8:30 a.m.,
at the Career Service Hearing Office,
210 West Colfax Avenue, First Floor, Denver CO 80202.

1. All discovery and depositions must be completed by March 4, 2011,
2. The parties' amended prehearing statements are due March 4, 2011,
3. Requests for subpoenas for the testimony of witnesses must be filed by March 11, 2011 and must be served by March 16, 2011.
4. Requests for subpoenas to provide documents must be filed by March 1, 2011 and must be served by March 11, 2011.

Order on Discovery

Based on the foregoing findings, the Agency is ordered to produce:

1. All documents it submitted to the Equal Employment Opportunity Commission (or the Colorado Civil Rights Commission under its work-sharing agreement) in the charge of discrimination filed by Appellant on the issues raised by this appeal, and
2. The Sept. 14, 2009 recording of the CSB meeting on the issue of the Agency's request for deconsolidation or reorganization.

Dated this 20th day of January, 2011.


Valerie McNaughton
Career Service Hearing Officer

I certify that on January 20, 2011, I delivered a correct copy of this Order to the following in the manner indicated:

Gregory Hill, Gregory.hill@denvergov.org

Joseph Rivera, dlefilng.litigation@denvergov.org

(via email)

(via email)

