

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 80-07

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

GARY LUFT,
Appellant,

vs.

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

The Appellant filed this appeal under Career Service Rule (CSR) 19-10 A.2.b.ii. He claims the Agency's failed to respond timely to the Appellant's grievance of a written reprimand. After the appeal was filed, the parties entered into mediation. Status reports were subsequently filed May 12, 2008. Embedded in Appellant's status report was a "Motion to Overturn Disciplinary Action (Letter of Reprimand)." The Appellant's motion was interpreted as a request for hearing in light of the parties' failure to resolve this matter through mediation. The Agency did not respond directly to the Appellant's motion but, in its status report, requested the case be reset for hearing in light of the parties' inability to resolve the case through mediation.

The Appellant was ordered to show cause why this appeal should not now be dismissed for lack of jurisdiction, specifically under Career Service Rule (CSR) § 19-10 A.2.b.v. and § 18-40 E. 1. The Appellant filed a timely response to the Show Cause Order on June 9. The Agency did not respond. Having reviewed the Appellant's response and being otherwise informed in this matter, the Hearing Officer now finds and orders as follows.

CSR §19-10 sets forth the types of matters over which the Hearings Office has jurisdiction. If the matter complained of is not one of the subjects listed within the rule, or the remedy sought is not one which the Hearing Officer has authority to grant, then the Hearing Officer is left without jurisdiction to consider the merits of the appeal.

CSR 19-10 A. 2. b. v. states written reprimands may not be appealed. In other words, a written reprimand is not a matter over which the Hearing Officer has authority to grant relief.

The Appellant claims the matter may proceed to hearing because the Agency never filed a formal response to the Appellant's grievance. However, where an agency engages in mediation subsequent to an employee's grievance, mediation process constitutes a response to the Appellant's grievance. Consequently, the Agency has fulfilled the Appellant's grievance by engaging in mediation, and the only remaining claim, concerning the Appellant's written reprimand, is not one over which the Hearings Office retains jurisdiction.

For reasons stated above, the Hearing Officer finds he lacks subject matter jurisdiction over the Appellant's claim. Therefore this appeal is **DISMISSED WITH PREJUDICE.**

DONE June 13, 2008.



Bruce A. Plotkin
Bruce A. Plotkin
Career Service Hearing Officer