

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

Appeal No. 66-06

ORDER DISMISSING APPEAL WITH PREJUDICE

IN THE MATTER OF THE APPEAL OF:

RODNEY MAGELKY,
Appellant,

vs.

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

The Appellant was ordered to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant filed his Response on September 15, 2006. The Agency did not file a response. After considering the Appellant's response and applicable law, the Hearing Officer finds and orders as follows.

Appellant Rodney Magelky is employed at Denver International Airport as an HVAC mechanic. He is appealing his employer's non-response to a grievance he filed on August 3, 2006. The appeal did not appear to allege an Agency violation of the Career Service Rules, the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies as is required to establish jurisdiction under CSR 19-10 B) 2) a). Nor did Appellant indicate how the grievance "negatively impacts the employee's pay, benefits, or status" as is also required to establish jurisdiction under that section of the Rule. Based on a review of the appeal form and its attachments, the Hearing Officer issued an Order to Show Cause requiring the Appellant to address these omissions.

Appellant's response to the Show Cause Order, reviewed together with the appeal form and its attached grievance documentation, indicates that Appellant is seeking review of the method used to fill an HVAC Acting Supervisor position. He alleges the Agency violated its written policy titled "CSA HVAC Mechanic – duty on level of supervision". The Appellant also argues the agency's determination that he did not qualify for the position negatively impacts his future chances for advancement in pay, benefits, and status. There is no allegation that Appellant's current pay, benefits, or status have been negatively impacted by the agency action.

The Appellant states his pay may be negatively impacted "because, at some time, DIA will hire a new supervisor from a list of lead persons. "If [I] was to get the supervisor position my pay would go up." Such a slim thread of speculation does not support the weight of the Appellant's obligation to show a negative impact on pay.

Similarly, the Appellant's other contentions as to benefits and status are too vague and speculative to support a claim upon which relief may be granted. Because the Appellant has failed state a claim how his grievance negatively impacts his pay, benefits, or status, the Hearing Officer finds he is without jurisdiction over this appeal. Accordingly this appeal is DISMISSED WITH PREJUDICE for lack of jurisdiction.

DONE this 22nd day of September, 2006.



Bruce Plotkin
Hearing Officer for the
Career Service Board

CERTIFICATE OF MAILING

I certify I have forwarded a correct copy of the foregoing **ORDER DISMISSING APPEAL WITH PREJUDICE**, by depositing it in the U.S. mail, postage prepaid, this 22nd day of September, 2006, addressed to:

Mr. Rodney Magelky
5148 Elm St.
Denver, CO 80221

I further certify I have forwarded a correct copy of the foregoing **ORDER** by depositing it in interoffice mail this 22nd day of September, 2006, addressed to:

Robert Wolf, Assistant City Attorney
City Attorney's Office
Litigation Section
201 West Colfax Avenue Dept. 1108
Denver, CO 80202


