

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 15-08

ORDER DISMISSING APPEAL WITHOUT PREJUDICE

IN THE MATTER OF THE APPEAL OF:

FREDDIE MARTIN,
Appellant,

vs.

AUDITOR'S OFFICE,
and the City and County of Denver, a municipal corporation, Agency.

INTRODUCTION

This Order addresses two motions filed by the Agency: "Agency's Motion to Dismiss for Mootness," filed April 14, 2008; and the "Agency's Unopposed Motion to Stay Proceedings," filed April 15, 2008. The Appellant responded on April 16 that he concurs in the Agency Motion to Dismiss, but requests the dismissal be ordered without prejudice to re-file. His response was silent as to the Agency's motion to stay.

BACKGROUND

The issue in this appeal was the Agency's rating of the Appellant's annual work review as "needs improvement." According to both parties, subsequent to the filing of this appeal, the Agency changed the Appellant's work rating to "meets expectations" and changed his work team assignment as the Appellant requested in his appeal. Consequently, subject to the written confirmation of said changes, there remains no appealable claim. Career Service Rule 19-10 A. 2. c.

DISCUSSION

The Appellant's response did not state why this appeal should be dismissed without prejudice; however the Appellant stated he was "informed" of the rating and team assignment changes. I infer the Appellant intends by his response that he has not received written confirmation of the changes to his rating and team assignment. Without written affirmation of the same from Agency, I concur in the Appellant's response.

ORDER

1. The Agency's Motion to Dismiss is GRANTED IN PART as to dismissal of this appeal, and DENIED IN PART as to dismissal with prejudice. This appeal is, accordingly, DISMISSED WITHOUT PREJUDICE.

2. The Agency's Unopposed Motion to Stay Proceedings is rendered MOOT by this order.

DONE April 17, 2008.



Bruce A. Plotkin
Career Service Hearing Officer

I certify that I delivered a correct copy of this Order to each of the following in the manner indicated:

Mr. Freddie Martin, 4982 Jasper Street, Denver, CO 80239 (via U.S. mail);
Andrea Kershner, Assistant City Attorney,
Defiling.litigation@denvergov.org (via email);
Dennis Gallagher, Auditor, Dennis.Gallagher@denvergov.org (via email).


