

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

Appeal No. 200-02

ORDER OF DISMISSAL

IN THE MATTER OF THE APPEAL OF:

JOHN EUGENE PEREZ SR., Appellant

Agency: DEPARTMENT OF PUBLIC WORKS, STREET MAINTENANCE
DIVISION and THE CITY AND COUNTY OF DENVER, a municipal
corporation.

On January 7, 2003, the above-named Agency filed its Motion to Dismiss, or in the alternative, for a More Particular Statement. By Order dated January 15, 2003, Appellant was ordered to respond to the Agency's motion. Appellant filed a "Particular Statement" on January 22, 2003 and on February 10, 2003 filed a Motion to Amend and or Add to Exhibits. As of the date of this order no response to Appellant's Motion has been received at the Career Service Authority Hearing Office.

In its' Motion to Dismiss, the Agency argues that Appellant did not comply with the jurisdictional requirements of Career Service Rule 18-12 (2). Appellant did not respond to this argument in his Particular Statement or his Motion to Amend.

FINDINGS OF FACT

Because Appellant did not respond to the Agency's Motion to Dismiss, the undersigned Hearing Officer finds that the Agency's Motion to Dismiss and Statements of Fact, contained therein, are confessed and admitted by Appellant. The Hearing Officer adopts the Agency's Statement of Facts, 1 through 15 with Attachments A through K, as Findings of Facts as if fully set forth herein.

DISCUSSION

Career Service Rules mandate that a first-level grievance shall be presented to the employee's *immediate supervisor* within 10 calendar days of the action giving rise to the grievance. CSR 18-12 (2). In this case, on October 28, 2002, Appellant received notice of his reassignment to the Solid Waste Division, effective immediately. On October 29, 2002,

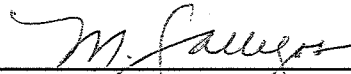
Appellant filed a grievance with Steve Garcia (Garcia), the Director of Street Maintenance. On November 4, 2002, Appellant filed a grievance with Brian Nieto (Nieto), Operations Supervisor in the Street Maintenance Division. Neither Garcia nor Nieto were Appellant's immediate supervisor on the date he filed grievances with Garcia and Nieto. Therefore, the Hearing Officer concludes that the grievances filed by Appellant on October 29, 2002 and November 4, 2002 were not in compliance with CSR 18-12 (2).

On November 12, 2002, Appellant filed a grievance with Dave Peachy, Sr., (Peachy) Operations Supervisor in the Solid Waste Division. At that time Peachy denied Appellant's grievance because the grievance was filed more than 10 calendar days after the action giving rise to the grievance. Career Service Rules impose a mandatory time limitation on the filing of a first-level grievance. (See CSR 18-12(2).) Because Appellant did not comply with the grievance procedure set out in the Career Service Rules, he is not entitled to a hearing in this matter.

ORDER

Accordingly, for the reasons stated above and in the Agency's January 7, 2003 Motion to Dismiss, this appeal is hereby DISMISSED with prejudice.

Dated this 20th day of February 2003.



Michael S. Gallegos
Hearing Officer for the
Career Service Board

CERTIFICATE OF MAILING

I hereby certify that I have forwarded a true and correct copy of the foregoing **ORDER OF DISMISSAL** by depositing same in the U.S. mail, postage prepaid, this 20th day of February 2003, addressed to:

John Eugene Perez, Sr.
4589 Decatur
Denver, CO 80211

I further certify that I have forwarded a true and correct copy of the foregoing **ORDER OF DISMISSAL** by depositing same in interoffice mail this 20th day of February 2003, addressed to:

Robert A. Wolf
Assistant City Attorney

Bill Miles, Dept. 609
Department of Public Works

Steve Garcia
Street Maintenance Division

Charlotte A Smith