

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

Appeal No. 358-01

DISMISSAL ORDER

IN THE MATTER OF THE APPEAL OF:

ROBERT M. RODRIGUEZ, Appellant,

v.

Agency: Community Planning and Development Agency and the City and County of
Denver, a municipal corporation.

Appellant filed an appeal of a grievance decision with the Career Service Board Hearing Officer on November 1, 2001. Upon review of the appeal, it appeared to the Hearing Officer that she did have jurisdiction to consider this appeal, pursuant to CSR §§18-12 4. and 19-10 d). Appellant was ordered to show cause on or before November 30 as to the grounds of the Hearing Officer's jurisdiction. The Agency was given the opportunity to respond if it so chose. Neither party responded. Being fully advised of this matter, the Hearing Officer finds as follows:

CSR §18-10 A. Defines "grievance" as:

For purposes of the Career Service personnel rules the term "grievance" shall mean an issue raised by a Career Service employee relating to the interpretation of rights, benefits or conditions of employment as contained in the Career Service personnel rules, the Charter of the City and County of Denver, or ordinances relating to the career service.

CSR §18-12 provides, in pertinent part:

Section 18-12 Grievance procedure

If a work related dispute was not resolved through alternative dispute resolution or if alternative dispute resolution was not previously attempted and a career service employee has a grievance as defined in Section 18-10 (a) of this rule, the employee may file a grievance according to the following

4. **Filing with Career Service Authority:** If the employee still feels aggrieved after receipt of this decision, or the agency head has not responded within ten (10) calendar days, and **the grievance concerns an alleged violation of Charter provisions relating to the Career Service, ordinances relating to the Career Service, or the Career Service Rules**, and the employee wants to pursue the grievance further, the employee must appeal to the Hearings

Officer of the Career Service Board in accordance with the provisions of RULE 19 APPEALS....(emphasis added)

CSR § 19-10 d) governs the actions that are subject to appeal before the Hearing Officer. It provides:

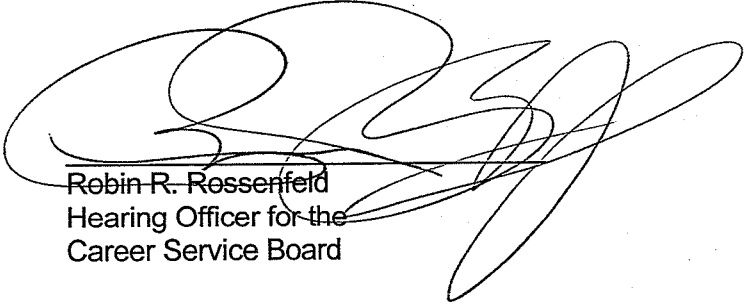
- d) Grievances resulting in rules violations: Any grievance which results in an alleged violation of the Career Service Charter Amendment, or Ordinances relating to the Career Service, or the Career Service Personnel Rules. **The grievance must be in conformance with and processed pursuant to the requirements of Section 18-12 Grievances of employees.** The appeal form must state with specificity which career service charter amendment, ordinance or career service rule(s) are alleged to have been violated. An appeal may be dismissed if the appellant fails to cite the alleged rule violation(s). (Emphasis added)

It is clear from these Rules that a grievance appeal must indicate which substantive City Charter Amendment or Ordinance relating to the Career Service or Career Service Personnel Rule is alleged to have been violated in order for the Hearing Officer to have jurisdiction over the matter.

In his Notice of Appeal, Appellant claimed that "General Policy 112" was violated. Alleged violations of general policies and Executive Orders are not appealable grievances under Rules 18 and 19. Further, the "Letter of Advisement" that Appellant is requesting be removed from his file is not a step towards progressive discipline under CSR §16-20. (The steps in progressive discipline recognized by the CSR are, in order of increasing severity, verbal reprimand, written reprimand, suspension, involuntary demotion, and dismissal). Finally, since the overtime request was granted to Appellant by Jennifer Moulton at the second step of the grievance, that issue has become moot.

Based upon the foregoing. The appeal is DISMISSED with prejudice.

Dated this 2nd day of January 2002.



Robin R. Rossenfeld
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 DISMISSAL ORDER by depositing the same in the U.S. mail, this 3 day of January 2002, addressed to:

Robert M. Rodriguez
4903 Vallejo St.
Denver, CO 80221

I further certify that I have forwarded a true and correct copy of the foregoing DISMISSAL ORDER by depositing the same in interoffice mail, this 3 day of January 2002, addressed to:

Office of the City Attorney
Employment Law Section
1437 Bannock Street, Room 353
Denver, CO 80202-5375

Jennifer Moulton
Community Planning and Development Agency

Virginia Granado