

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 60-07

DISMISSAL ORDER

IN THE MATTER OF THE APPEAL OF:

ANTHONY SULLIVAN, Appellant,

vs.

DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,
and the City and County of Denver, a municipal corporation, Agency.

Appellant has responded to the Order to Show Cause regarding the jurisdiction of the Hearing Office in this appeal.

The appeal challenges the Agency's failure to pay holiday premium pay for July 4, 2007, a city holiday. Appellant filed a grievance under Rule 18 of the Career Service Rules (CSR) and also under the Collective Bargaining Agreement (CBA) governing deputy sheriffs. The Agency denied the Career Service grievance on the ground that it "relates to specific pay provisions of the CBA." [Appeal atch. 2-1.] On the same day, the Agency denied the CBA grievance based on its interpretation of holiday pay compensation under the CBA. [Appeal atch. 3-1.]

Appellant claims jurisdiction under CSR § 19-10 B.2.a. to appeal the denial of the Career Service grievance. Appellant's response to the Order to Show Cause argues that the grievance was based upon an Agency action that negatively impacts pay and benefits. Since City Charter § 9.9.3 gives deputy sheriffs the right to collectively bargain for fringe benefits, it is contended, the terms of the resulting CBA controlling the fringe benefit of holiday premium pay should be appealable.

ANALYSIS

The Career Service personnel system was created by the City Charter "to adopt, administer and enforce rules necessary to foster and maintain a merit-based personnel system according to the principles set forth in [the Charter, including] grievance procedures, and appeals from actions of appointing authorities to the Board and any hearing officers appointed by the Board." Charter § 9.1.1. The Board defined the jurisdiction of the Career Service Hearing Office in C.S.R. § 19-10. A grievance is appealable only if it "results in an alleged violation of the Career Service Rules, the City Charter, ordinances relating to the Career Service executive

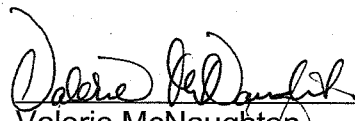
orders, or written agency policies *and* negatively impacts the employee's pay, benefits or status." CSR 19-10 B.2.a. (emphasis added.)

This appeal is not based on a violation of the overtime rules set forth in Rule 10, or other authority appealable under CSR § 19-10 B.2.a. Appellant claims that the Agency misinterpreted the Collective Bargaining Agreement, not the Career Service Rules. The Hearing Office has no jurisdiction to determine whether an Agency action is in violation of a collective bargaining agreement. In re Espinoza, CSB 30-05, 2 (8-24-06).

Order

Based on the foregoing findings and analysis, the appeal is dismissed for lack of jurisdiction.

Dated this 19th day of September, 2007.


Valerie McNaughton
Career Service Hearing Officer

I hereby certify that a copy of this Order was sent to the following on Sept. 20, 2007:

Appellant Anthony D. Sullivan, Anthony.Sullivan@denvergov.org
Denver City Attorney's Office, dlefilng.litigation@denvergov.org
Manager of Safety Alvin LaCabe, Alvin.LaCabe@denvergov.org
Director of Corrections and Undersheriff William R. Lovingier, Bill.Lovingier@denvergov.org

