

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

Appeal No. 29-03

ORDER OF DISMISSAL

IN THE MATTER OF THE APPEAL OF:

JEFFREY A. WOOD, Appellant,

Agency: DEPARTMENT OF SAFETY, DENVER SHERIFF
DEPARTMENT, and CITY AND COUNTY OF DENVER, a
municipal corporation.

This Order concerns Appellant's appeal filed with the Career Service Authority on February 28, 2003. The hearing officer entered an Order to Show Cause why this matter should not be dismissed as untimely on April 8, 2003.

Appellant filed a Response to the Hearing Officer's Show-Cause Order on April 21, 2003. Having now considered Appellant's Response to the Show-Cause Order, and being fully advised in the premises, the hearing officer now DISMISSES this case for the following reasons:

DISCUSSION AND CONCLUSIONS

Appellant's appeal concerns a grievance he filed in response to a suspension he received on January 13, 2003.

The CSR rules governing the grievance and appeal processes make a distinction between actions that must be grieved before an appeal is filed, and those which must be directly appealed. Those rules read as follows:

CSR 16-40 C. Disciplinary action which may be grieved or appealed.

A verbal warning may not be grieved or appealed. An employee may file a grievance on a written reprimand in accordance with **RULE 18, Dispute Resolution** but may not file an appeal, except as permitted under **RULE 19, Appeals**. **An employee may appeal a suspension, involuntary demotion or dismissal in accordance with Rule 19, Appeals.**

(Emphasis added.)

CSR 19-10 b) provides:

Section 19-10 Actions Subject to Appeal

An applicant or employee who holds career service status may appeal the following administrative actions relating to personnel.

...b) Action of an appointing authority: Any action of an appointing authority resulting in dismissal, **suspension**, involuntary demotion, disqualification, layoff, or involuntary retirement other than retirement due to age which results in alleged violation of the Career Service Charter Provisions, or Ordinances relating to the Career Service, or the Personnel Rules.

(Emphasis added.)

* * *

19-22 Time Limitation and Form of Appeal

a) Time Limitation

- 1) Every appeal shall be filed at the office of the Career Service Authority within ten (10) calendar days from the date of notice of the action, which is the subject of the appeal.
- 2) The computation of the ten (10) calendar days shall be as follows:

... (b) The period of time for filing the appeal starts on the day following the date of notice of the action or date of inaction.

(Emphasis added.)

* * *

These rules establish that only the disciplinary action of a written reprimand must first be grieved before it is appealed. All other disciplinary actions, including suspensions, must be directly appealed within ten days of notice of the disciplinary action in order to be timely.

Appellant did not file an appeal within ten days of his suspension as required under the above CSR rules. Instead, he first went through the grievance process. Appellant asserts he did so in accordance with his training. However, the rules clearly require that suspension be directly appealed.

The hearing officer concludes that Appellant's appeal of his suspension was due no later than January 23, 2003, ten days after the date of notice of suspension.

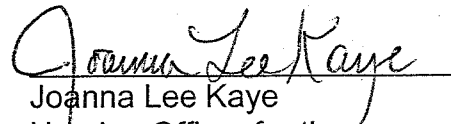
Appellant did not file his appeal until February 28, 2003, over a month after the timely filing deadline for an appeal of his suspension had expired.

It is well established that the timely filing of an appeal is a jurisdictional requirement. Widener v. District Court, 200 Colo. 398, 615 P.2d 33 (1980). If the notice of appeal is not filed within the time limits, the tribunal loses jurisdiction over the matter. Since Appellant's appeal was filed after the deadline, it was untimely under the above CSR rules governing the filing of appeals concerning suspensions. The hearing officer therefore lacks jurisdiction to hear this case.

ORDER

WHEREFORE, Appellant's appeal is DISMISSED WITH PREJUDICE as untimely.

Dated this 15th day of July, 2003.


Joanna Lee Kaye
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** depositing same in the U.S. mail, postage prepaid, this 14 day of July, 2003, addressed to:

Jeffrey A. Wood
20950 E. 45th Ave.
Denver, CO 80249

I further certify that I have forwarded a true and correct copy of the foregoing **ORDER OF DISMISSAL** depositing same in interoffice mail, this 14 day of July, 2003, addressed to:

City Attorney's Office
Employment Law
201 West Colfax Ave. Dept 1108
Denver, CO 80206

Tracy Howard
Department of Safety

F.J. Oliva
Department of Safety

V. Granada