

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 125-08

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

JEROME J. MORA, Appellant,

vs.

DEPARTMENT OF AVIATION, FIELD MAINTENANCE
and the City and County of Denver, a municipal corporation, Agency.

Appellant has been ordered to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant timely filed his response on November 25, 2008. The Agency responded on November 26, 2008.

This is the pro se Appellant's direct appeal of a failure to pass employment probation for the position of Equipment Operator. Appellant appeals on the bases of discrimination, harassment, and retaliation. The order to show cause ordered Appellant to address the nature of the protected status alleged to be the basis of the discrimination and harassment claims and to identify the protected activity that is the basis for the retaliation claim.

Appellant asserts that harassment consisted of accusations that he had failed to follow procedure and perform work and began because his supervisor did not like him "for some reason". He notes that he was terminated two days after being involved in an accident and alleges that other probationary employees he identifies by name were also involved in accidents, but that those accidents were not investigated as his was and those employees were not reprimanded. The Agency argues that Appellant failed to identify the protected status upon which the harassment and discrimination claims are based.

Appellant asserts that the termination during probation was imposed in retaliation for his scheduling a meeting with management to discuss his situation. The Agency argues that Appellant failed to identify an activity protected from retaliation under § 15-106.

The rules specify that probationary employees may not appeal dismissal except on the grounds of alleged discrimination or violation of the Whistleblower ordinance. CSR § 5-61.

Although Appellant has alleged discrimination, neither the appeal nor the response to the Order to Show Cause specifies the protected basis alleged for discrimination or harassment. Neither submission identifies a protected activity taken by Appellant that is needed to support a retaliation claim. CSR § 15-106. The Order to Show Cause requires that the response include a showing as to each of these matters.

ORDER

Based on the foregoing findings, this appeal, including claims of discrimination, harassment, and retaliation, is dismissed.

DONE this 28th day of November, 2008.


Valerie McNaughton
Career Service Hearing Officer