

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 43-09

ORDER DISMISSING APPEAL

IN THE MATTER OF THE APPEAL OF:

BEVERLY ELFVIN, Appellant,

vs.

DENVER HUMAN SERVICES,
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 her response on June 5, 2009. The Agency responded on June 8, 2009. Having reviewed the parties' responses and being otherwise informed in this matter, the Hearing Officer now finds and orders as follows.

This is the pro se Appellant's appeal of the denial of her grievance, which requested that ten hours of paid vacation leave be replaced with ten hours of administrative leave under CSR §11-41 D.3., which permits use of administrative leave for business necessity. Appellant asserts she left work at the request of her co-workers, who feared her husband was infected with swine flu. Appellant left work on May 4 without submitting a request for leave, stating that she assumed she would be granted administrative leave, as she was leaving "for the good of the agency." Instead, the Agency granted vacation leave on the day of her return. [Appeal, Atch. 8.] The order to show cause directed Appellant to demonstrate how the Agency action violated the rule and how it negatively impacted her pay, benefits, or status.

Appellant asserts in her response that her pay has been negatively impacted by the involuntary grant of vacation leave inasmuch as 1) she would not receive the 10 hours' vacation pay on her retirement; and 2) the Agency implied it would impose a lower PEPR rating if she did not leave work "for the good of the agency". Speculation that her refusal to leave could result in future retaliation, including a lower PEPR rating, does not assert a negative impact needed to establish jurisdiction over a grievance appeal. The Agency points out that Appellant has already been paid for the 10 hours

off work, and thus the appeal does not challenge a present loss of pay or benefits.

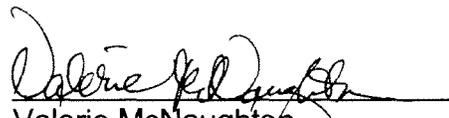
Granting administrative leave is discretionary with the Agency, since the appointing authority itself must determine there is a business necessity under the cited rule. In denying the grievance, the Agency noted it had not found a business necessity for administrative leave, and that paid vacation leave had been granted, even though leave without pay was an option.

Neither the appeal documents nor the response to the Order to Show Cause demonstrates a rule violation or a negative impact on pay, benefits, or status. Therefore, there is no jurisdiction under § 19-10 A.2.b.i. to proceed with this appeal.

ORDER

Based on the foregoing findings, this appeal is dismissed with prejudice.

DONE June 8, 2009.


Valerie McNaughton
Career Service Hearing Officer

S:/Share/hearings/Cases/ElfinBeverly45-09/Order Dismissing Appeal.doc

I certify that on June 8, 2009, a correct copy of this Order Dismissing Appeal was delivered to the following in the manner indicated:

Ms. Beverly Elfvn, 2860 S. Kenton Court, Aurora, CO 80014 (via U.S. mail)
Niels Loechell, ACA , Niels.Loechell@denvergov.org (via email)
Ms. Jennifer Fairweather, HR, Jennifer.Fairweather@denvergov.org (via email)

