

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

Appeal No. 81-05

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**ORDER DISMISSING APPEAL**

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IN THE MATTER OF THE APPEAL OF:

**VINCENT MACIEYOVSKI,**  
Appellant,

vs.

**Department of General Services, Public Office Buildings Division,**  
and the City and County of Denver, a municipal corporation,  
Agency:

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By order dated August 1, 2005, the Appellant was ordered to show cause why his appeal should not be dismissed for lack of jurisdiction. Both the Appellant and the Agency have filed timely responses. Upon review thereof, the Hearings Officer finds and orders as follows.

The Appellant did not dispute, and the Hearings Officer finds, that the Appellant's appeal relates to a decision made by the Agency to not select him to participate in an interview for a promotion. The Appellant filed documentation with his appeal which indicates the Appellant was notified on June 30, 2005 that the position he sought was filled. "[The Agency head] has replied on June 30, 2005, and stated that indeed the position has been filled." [Appeal]. The Appellant also stated on his appeal form that the date of notice of the action he is appealing is June 30, 2005.

Career Service Rule 19-22 a) provides that an appeal must be filed with the Career Service Authority Hearings Office ten days from the date of notice of action, which would be ten days from June 30, 2005. Pursuant to that rule, Appellant's appeal was due to be filed with the Career Service Authority Hearings Office on or before July 11, 2005<sup>1</sup>. Appellant filed his appeal on July 18, 2005.

The Appellant acknowledged the Agency rejected his application on June 30, but claims the 10-day rule was waived by the Agency's addition of the statement "[w]e will be notifying the remaining candidates of our decision." The Appellant claims since the Agency failed to notify him after the June 30 letter, that failure served as a waiver of the 10-day rule.

First, the Appellant already acknowledged in his Appeal and in his response to the Order to Show Cause, that he learned of the Agency's decision not to hire him on

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<sup>1</sup> Ten days from June 30, 2005, was July 10, 2005, a Sunday, a non-business day. Therefore, the Appellant had until the next business day, July 11, to file his appeal.

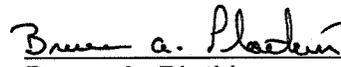
June 30, 2005. His subsequent claim that the Agency did not notify him contradicts these earlier acknowledgments.

Second, the Appellant misunderstands the plain meaning of the Agency's statement "[w]e will be notifying the remaining candidates of our decision." Since the Appellant was not a part of the group of remaining candidates, the Agency intended no further notification to him, only to those candidates who were selected to interview.

Third, the Appellant's stated remedy, that "the selection process be declared void and invalid" is not within the Hearing Officer's jurisdiction.

For these reasons, the Appellant has failed to show cause why the Hearings Officer lacks jurisdiction to hear this appeal. Accordingly, the Hearings Officer orders this appeal to be DISMISSED WITH PREJUDICE.

DONE this 17<sup>th</sup> day of August, 2005.

  
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Bruce A. Plotkin  
Hearing Officer  
Career Service Board