

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

Appeal No. 14-06

ORDER OF DISMISSAL

IN THE MATTER OF THE APPEAL OF:

ROBERT L. STENKE,
Appellant,

vs.

DENVER INTERNATIONAL AIRPORT, FLEET MAINTENANCE, DEPARTMENT OF AVIATION, and the City and County of Denver, a municipal corporation,
Agency.

The Agency has moved to dismiss this appeal. Appellant has not responded within the time set in the Prehearing Order for that response, nor submitted a prehearing statement.

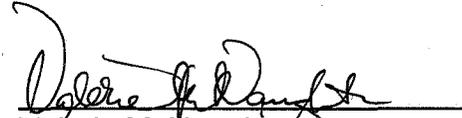
This is an appeal of a "successful" Performance Enhancement Progress Report (PEPR) fully signed on January 23, 2006. Appellant filed a grievance on January 29, 2006 because the PEPR used the three-rating system placed into effect on January 1, 2006 rather than the previous system using four levels of performance. Appellant argued that 1) the new system might keep him from receiving a pay increase, and 2) the evaluation unfairly used the 2006 performance criteria to rate his 2005 performance. The grievance was denied on February 3, 2006 based upon the Agency's conclusion that the 2005 criteria were in fact used, and that Rule 13 requires use of the three-rating system for all PEPRs coming due on or after Jan. 1, 2006, the effective date of the amended Rule 13. This appeal followed.

The Agency claims that the Hearing Officer lacks jurisdiction of an appeal of the matter, either as a PEPR under CSR § 19-10(B)(3), or as an appeal of a grievance under CSR § 19-10(b)(2).

Only a "needs improvement" PEPR may be directly appealed. CSR §§ 19-10(b)(3); CSR § 18-40(E)(1). While any performance rating may be challenged by means of a grievance, only those matters that negatively affect pay, benefits or status may be appealed if a grievance is denied. CSR §§ 13-50(A); 18-40(E)(4). "An employee may not grieve or appeal any other aspect of the Performance Enhancement Program." CSR § 13-50(C).

This successful rating is not directly appealable under either CSR § 19-10 e), effective August 24, 2000, or the superceding rule, CSR § 19-10(B)(3), effective January 1, 2006. In addition, Appellant has alleged no negative effect on his pay, benefits or status, as required for an appeal of a grievance under CSR § 19-10(B)(2). No other basis for jurisdiction appears of record. Therefore, the appeal is dismissed based upon lack of jurisdiction.

Done this 15th day of March, 2006.


Valerie McNaughton
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** by depositing it in the U.S. mail, postage prepaid, this 15th day of March, 2006, addressed to:

Mr. Robert L. Stenke
5063 Ursula Street
Denver, CO 80239

I further certify that I have forwarded a true and correct copy of the foregoing **ORDER** by depositing it in interoffice mail this 15th day of March, 2006, addressed to:

Joseph A. DiGregorio, Esq.
City Attorney's Office
Litigation Section
201 West Colfax Avenue Dept. 1108
Denver, CO 80202

Mr. Jim Thomas
Department of Aviation

