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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Melanie M. Holsey)	OEA Matter No. J-0095-07
Employee)	
)	Date of Issuance: April 3, 2008
v.)	
)	Sheryl Sears, Esq.
Office of the Chief)	Administrative Judge
Financial Officer)	
Agency)	
_____)	

Melanie M. Holsey, Employee, *Pro Se*
Natwar M. Gandhi, Chief Financial Officer, Agency Director

INITIAL DECISION

INTRODUCTION

On June 25, 2007, Natwar M. Gandhi, Chief Financial Officer, notified Employee that she would be removed from her position effective at the close of business that day. On July 6, 2007, Employee filed an appeal with this Office. She challenges the separation as an “adverse action without proper cause, and a violation of the OCFO’s Code of Conduct.” She complains that she was presented with no other cause for her removal than that she was an “at-will” employee. Employee was ordered to present, in writing, a written statement of any reason that her appeal should not be dismissed for lack of jurisdiction. She made no presentation. The record is now closed.

BURDEN OF PROOF

OEA Rule 629.2, 46 D.C. Reg. 9297 (1999) states that “[t]he employee shall have the burden of proof as to issues of jurisdiction . . .”

JURISDICTION

As will be explained in detail below, the jurisdiction of this Office has not been established.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

ANALYSIS AND CONCLUSIONS

The D.C. Official Code (2001), Section 1-606.03, establishes that an employee may appeal, to this Office, “a final agency decision” effecting “an adverse action for cause that results in removal.” Chapter 16 of the District Personnel Manual (DPM) contains the rules and regulations that implement the law of employee discipline. Section 1600.1 of the DPM limits the application of those provisions to employees “of the District government *in the Career Service.*” (Emphasis added.) In accordance with §1601.1, no career service employee may be “officially reprimanded, suspended, reduced in grade, removed, or placed on enforced leave, except as provided in this chapter or in Chapter 24 [the provisions for conducting a reduction in force (RIF) of these regulations.” Thus, career service employees are afforded certain protections by the laws, rules and regulations that provide for adverse personnel actions.

Section 1601.1 of the DPM distinguishes career service employees from others by stating that “[e]xcept as otherwise required by law, an employee not covered by §1600.1 is an *at will employee* and may be subjected to any or all of the foregoing measures at the sole discretion of the appointing personnel authority.” (Emphasis added). At the time of her separation, the appellant was an “at will” employee.

It is well established that employees at will may be terminated “for any reason at all.” *Cottman v. D.C. Public Schools*, OEA Matter No. JT-0021-92, Opinion and Order on Petition for Review (July 10, 1995), ___ D.C. Reg. ___ (). This Office does not, according to the applicable laws, rules and regulations, have jurisdiction over the appeal of a removal of an at-will employee. Thus, Employee’s appeal must be dismissed.

ORDER

It is hereby ORDERED that the petition for appeal in this matter is dismissed for lack of jurisdiction.

FOR THE OFFICE:

SHERYL SEARS, ESQ.