

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
MOHAN KRISHNA,)	
Employee)	
)	OEA Matter No.: 2401-0087-03
v.)	
)	Date of Issuance: February 25, 2009
DEPARTMENT OF MENTAL HEALTH,)	
Agency)	
_____)	

OPINION AND ORDER

ON

PETITION FOR REVIEW

Mohan Krishna (“Employee”) worked as an Equipment Mechanic with the D.C. Department of Mental Health (“Agency”). On January 24, 2003, Employee received written notification that his position would be abolished pursuant to a reduction-in-force (“RIF”). The letter further stated that the RIF would become effective on February 28, 2003. Employee was informed of his right to appeal the action if he believed that Agency erred in administering the RIF.

Thereafter Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”) on April 7, 2003. The Administrative Judge (“AJ”) issued her Initial Decision on May 11, 2006. She dismissed Employee’s appeal for lack of jurisdiction. The AJ held that because Employee had not filed his appeal within thirty (30) days of the effective date of the appealed Agency action, as required by D.C. Official Code §1-606.03(a), the jurisdiction of this Office had not been invoked.

On June 14, 2006, Employee filed a Petition for Review. Employee asks us to reverse the Initial Decision, asserting that 1) new and material evidence is available that, despite due diligence, was not available when the AJ closed the record and 2) the Initial Decision did not address all the issues of law and fact raised in the Petition for Appeal.¹ Agency filed a response to the Employee’s Petition for Review on July 11, 2006.

Nowhere in Employee’s Petition for Review does he address the timeliness of his Petition for Appeal. The effective date of the RIF was February 28, 2003. Employee had thirty (30) days from February 28, 2003 to file an appeal with this Office.² As previously stated, Employee did not file a Petition for Appeal until April 7, 2003. Thus, the Petition for Appeal was not filed in a timely manner. Based on the foregoing we are compelled to deny Employee’s Petition for Review and uphold the Initial Decision.

¹ *Petition for Review* at 1.

² Thirty days from February 28, 2003 was March 30, 2003, which was the last date on which Employee could file a timely appeal with this Office. The written notification stated that the time for appealing Agency’s action began with the date of Employee’s receipt of the notification until no later than 30 calendar days after the effective date of the action.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

FOR THE BOARD:

Sherri Beatty-Arthur, Chair

Barbara D. Morgan

Richard F. Johns

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after the formal notice of the decision or order sought to be reviewed.