

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
Marion Lomax-Scott)	OEA Matter No. 1601-0017-07C09
Employee)	
)	Date of Issuance: October 26, 2009
v.)	
)	Joseph E. Lim, Esq.
D.C. PUBLIC SCHOOLS)	Senior Administrative Judge
Agency)	
_____)	

Harriet Segar, Esq., Agency Representative
Marion Lomax-Scott, Employee *pro se*

ADDENDUM DECISION ON COMPLIANCE

INTRODUCTION AND PROCEDURAL HISTORY

On November 17, 2006, Employee filed a petition for appeal from Agency’s decision to terminate her employment as a Business Manager, EG-11, effective December 8, 2006 to “equitably distribute resources across the district to align those resources with student enrollment.”

This matter was assigned to the undersigned judge on January 17, 2007. After I held a prehearing conference and obtained legal briefs from the parties, I issued an Initial Decision (ID) on March 13, 2007, and ordered Agency to reverse its action against Employee within 30 days of the date on which this decision becomes final and to restore to Employee all pay and benefits of which she was deprived because of the termination. After Agency appealed, the Office of Employee Appeals Board upheld the Initial Decision on June 23, 2009. The decision became final on June 28, 2009.

On August 17, 2009, Employee filed a motion for compliance, complaining that Agency had not reversed its removal action nor given back her back pay and benefits. In its September 24, 2009, response to my Show Cause Order, Agency stated that it had reinstated Employee and was in the process of working out her back pay. On September 24, 2009, Employee filed a second motion to enforce. Shortly thereafter, I spoke to the Agency representative. She assured me that the whole thing was in process. On October 21, 2009, Employee complained that she still has not been put back to work nor has the Director returned her calls. The record is closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether this matter should be certified to the General Counsel.

ANALYSIS AND CONCLUSION

OEA Rule § 636.1, 46 D.C. Reg. at 9321 (1999) reads as follows:

636.1 Unless the Office's final decision is appealed to the District of Columbia Superior Court, the District agency shall comply with the Office's final decision within thirty (30) calendar days from the date the decision becomes final.

OEA Rule 636.8, *id.*, reads in pertinent part as follows:

If the Administrative Judge determines that the agency has not complied with the final decision, the Administrative Judge shall certify the matter to the General Counsel. The General Counsel shall order the agency to comply with the Office's final decision in accordance with D.C. Code § 1-606.2.

In a compliance matter, the administrative judge's role is to determine whether or not the agency has complied with the Office's final decision. Here, there is no question that Agency did not comply with the final decision within the 30-day time frame, nor has it done so to date. Therefore, pursuant to OEA Rule 636.8, *supra*, this matter is certified to the Office's General Counsel for appropriate action.

ORDER

It is hereby ORDERED that this matter be certified to the General Counsel.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge