

**THE DISTRICT OF COLUMBIA**  
**BEFORE**  
**THE OFFICE OF EMPLOYEE APPEALS**

_____	)
In the Matter of:	)
	) OEA Matter No. J-0085-08
NATASHA PEARSON	)
Employee	) Date of Issuance: September 8, 2008
	)
v.	) Sheryl Sears, Esq.
	) Administrative Judge
OFFICE OF UNIFIED	)
COMMUNICATIONS	)
Agency	)
_____	)

Natasha Pearson, Employee, *Pro Se*  
Janet Quintana, Agency Director, D.C. Office of Unified Communications

**INITIAL DECISION**

INTRODUCTION AND FINDINGS OF FACT

Natasha Pearson (“Employee”) was a Universal Call Taker at the D.C. Office of Unified Communications (“Agency”). On December 18, 2007, Agency issued a “Notice of Final Decision: Proposed Removal” charging Employee with “failure to comply with written instructions or direct orders.” The removal was effective immediately. On May 29, 2008, Employee filed a petition for appeal with the Office of Employee Appeals (“OEA” or “the Office”) challenging the decision of Agency to remove her.

JURISDICTION

The Office has jurisdiction over the subject matter of this appeal pursuant to D.C. Official Code § 1-606.03 (2001). However, for reasons that will be explained below, this Office does not have jurisdiction over the matter.

ISSUE

Whether this appeal should be dismissed for lack of jurisdiction.

### ANALYSIS AND CONCLUSIONS

OEA Rule 629.1, 46 D.C. Reg. at 9317, provides that the burden of proof with regard to material issues of fact in appeals before this Office is by a “preponderance of the evidence.” Preponderance of the evidence is defined as “that degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.” In accordance with OEA Rule 629.2, *id.*, “the employee shall have the burden of proof as to issues of jurisdiction. . .” Therefore, it is the burden of the appellant to show that this Office has jurisdiction over her appeal.

D.C. Official Code § 1-606.03 (2001), establishes the jurisdiction of this Office as follows:

- (a) An employee may appeal [to this Office] a final agency decision affecting a performance rating which results in removal of the employee . . . an adverse action for cause that results in removal, reduction in grade, or suspension for 10 days or more . . . or a reduction in force [RIF] . . . (Emphasis added.)

Employee was removed. Generally speaking, this Office has jurisdiction over removals.

However, this appeal presents a threshold question of timeliness. The Omnibus Personnel Reform Amendment Act of 1998 (OPRAA), D.C. Law 12-124, provides that appeals to this Office must be “filed within 30 days of the effective date of the appealed agency action.” D.C. Official Code Section 1-606-03(a) (2001). The District of Columbia Court of Appeals has consistently sustained the decisions of this Office holding that the time limit for filing an appeal with an administrative adjudicatory agency is jurisdictional in nature as well as mandatory. *See e.g. Thomas v. District of Columbia Department of Employment Services*, 490 A.2d 1162 (D.C. 1985), and *District of Columbia Public Employee Relations Board v. District of Columbia Metropolitan Police Department*, 593 A.2d 641 (D.C. 1991).

Employee filed her appeal on May 29, 2008, more than five months after the effective date of her removal on December 18, 2007. The requirement for filing within thirty days is, by law, mandatory and jurisdictional. Employee’s late appeal falls outside of the jurisdiction of this Office and must be dismissed.

ORDER

It is hereby ORDERED that Employee's petition for appeal is DISMISSED for lack of jurisdiction.

FOR THE OFFICE:                    SHERYL SEARS, ESQ., ADMINISTRATIVE JUDGE