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THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	OEA Matter No.: 1601-0074-13
REYELLE TOLSON,)	
Employee)	
)	Date of Issuance: May 22, 2013
v.)	
)	
OFFICE OF THE STATE SUPERINTENDENT)	
OF EDUCATION,)	
Agency)	
_____)	
Reyelle Tolson, Employee, <i>Pro Se</i>)	Arien P. Cannon, Esq.
Hillary Hoffman-Peak, Esq., Agency Representative)	Administrative Judge

INITIAL DECISION

INTRODUCTION AND PROCEDURAL BACKGROUND

On April 10, 2013, Reyelle Tolson (“Employee”) filed a Petition for Appeal with the Office of Employee Appeals (“Office”) challenging the Office of the State Superintendent of Education’s (“Agency” or “OSSE”) decision to terminate her. At the time of the termination, Employee was a Bus Attendant with Agency. Employee was terminated for “any act which constitutes a criminal offense whether or not the act results in a conviction.”¹ Specifically, Employee was terminated amid allegations that she “knowingly and willfully failed to report [her] earnings;...and continued to collect unemployment insurance benefits to which [she] was not entitled.”² The effective date of Employee’s termination was July 6, 2012. On May 13, 2013, Agency filed a Motion to Dismiss for lack of jurisdiction.

¹ See Agency’s Answer at Exhibit 1 (May 13, 2013).

² *Id.*

I was assigned this matter on May 15, 2013. Upon review of the file, I have determined that no proceedings in this matter are necessary and a decision may be issued based on the documents that have been filed. The record is now closed.

JURISDICTION

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

ISSUE

Whether this Office may exercise jurisdiction over this matter.

FINDINGS OF FACT, ANALYSIS AND CONCLUSION OF LAW

The D.C. Comprehensive Merit Personnel Act of 1978 (CMPA) provides that an employee must file an appeal with the OEA “within thirty (30) days of the effective date of the appealed agency action.” D.C. CODE § 1-606.03(a). The time limits for filing appeals with administrative adjudicative agencies, as with courts, are mandatory and jurisdictional matters. *Zollicoffer v. District of Columbia Pub. Sch.*, 735 A.2d 944 (D.C. 1999). A failure to file a notice of appeal within the required time period divests the agency of jurisdiction to consider the appeal. *Id.*

Here, Employee received her Final Notice of Termination Letter on July 6, 2012, which was the effective date of her termination. This letter informed Employee of her right to pursue a grievance through her union or file an appeal with this Office. Employee was advised that if she elected to file an appeal with this Office, she must do so within thirty (30) days of receiving the letter. Based on a search in the United States Postal Service’s “Track & Confirm” database, using the number provided on the certified mail receipt in Agency’s Motion to Dismiss, Employee received the Final Notice of Termination on August 14, 2012. Thus, Employee had thirty (30) days from that date to file an appeal with this Office. Employee’s Petition for Appeal was not filed until April 10, 2013, nearly eight (8) months after she received her termination notice. Employee failed to file her petition within the time prescribed in D.C. Official Code § 1-606.03, and as such, diverts this Office’s jurisdiction over this matter. Based on the aforementioned, I find that this Office does not have jurisdiction over this case.

ORDER

Accordingly, it is **ORDERED** that Agency’s Motion to Dismiss for lack of jurisdiction is hereby GRANTED and Employee’s petition is DISMISSED.

FOR THE OFFICE:

Arien P. Cannon, Esq.
Administrative Judge