

Notice: This decision may be formally revised before it is published in the *District of Columbia Register*. Parties should promptly notify the Administrative Assistant 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:)	
)	
VARTAN P. ZENIAN)	
Employee)	
)	OEA Matter No. 1602-0305-97
)	
v.)	Date of Issuance: November 26, 2002
)	
PUBLIC SERVICE)	
COMMISSION)	
Agency)	
_____)	

OPINION AND ORDER
ON
PETITION FOR RECONSIDERATION

This matter came before the Board upon Employee's Petition for Review of an Initial Decision issued May 21, 2001. The Board carefully reviewed the entire record and the Initial Decision and concluded that the Administrative Judge based his decision on substantial evidence in the record and correctly stated the applicable law. As a result, the Board affirmed the Initial Decision and denied Employee's Petition for Review in an *Opinion and Order on Petition for Review* issued September 28, 2001.

Employee has now filed a "Petition for Reconsideration of the Board's Decision." The Board has again carefully reviewed the entire record and the Initial Decision and concludes that there is substantial evidence in the record to uphold the Initial Decision and the *Opinion and Order on Petition for Review*. Accordingly, the *Opinion and Order on Petition for Review* issued September 28, 2001 is hereby **AFFIRMED**.

While the Board is compelled to deny Employee's request for reconsideration based on the statutory 45-day rule, we urge Agency to administratively reverse the forfeiture of Employee's leave. We base this request upon our review of the complete record in this matter. Employee had accumulated 88 hours of "use or lose" annual leave. Employee attempted to utilize his leave but was told by his supervisor to postpone his leave until Christmas week of 1995 to finish an important project and was assured that he would not forfeit his 88 hours of use or lose leave. Despite this, Agency forfeited his leave. Based on these facts which appear uncontested in the record, we would have granted Employee's appeal but for the untimeliness of his grievance. In our view, fairness and equity suggest that Agency reconsider Employee's claim and restore his lost leave.

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for
Reconsideration of the Board's Decision is **DENIED**.

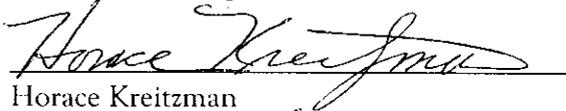
FOR THE BOARD:



Eric A. Hyman, Chair



Gwendolyn Hemphill



Horace Kreitzman



Brian Lederer

The initial decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance 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 formal notice of the decision or order sought to be reviewed.