

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: |) | |
| |) | |
| CLARA BOWERS, |) | OEA Matter Nos. 2401-0078-04 |
| Employee |) | |
| |) | Date of Issuance: September 19, 2006 |
| v. |) | |
| |) | |
| DISTRICT OF COLUMBIA |) | |
| PUBLIC SCHOOLS |) | |
| Agency |) | |

OPINION AND ORDER
ON
PETITION FOR REVIEW

Clara Bowers (“Employee”) was employed as an ET-15 teacher within the District of Columbia Public Schools system (“Agency”). On June 4, 2004, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA”). In her petition, Employee alleged that the principal violated her contract terms by requiring her to sign a competitive form that was sent to the “abolishment department”. Employee sought to get her job back because she thought that she was more senior than other teachers who were rehired.¹

¹ *Petition for Appeal*, p. 3 (June 4, 2004).

On July 1, 2004, the Administrative Judge ("AJ") issued an order requesting that Employee submit a copy of the final Agency decision. The Order provided that according to OEA Rule 609.4, Employee was required to submit this document with her appeal. The AJ gave Employee until the close of business on July 16, 2004, to submit the final Agency decision.²

On August 27, 2004, the AJ issued an Initial Decision. He provided that Employee failed to comply with his July 1, 2004 Order. As of the date of the Initial Decision, Employee had not filed a copy of the final Agency decision. Consequently, OEA's jurisdiction could not be established. Therefore, the case was dismissed.³

On September 4, 2004, Employee filed a Petition for Review with OEA. Her petition alleged that she did not receive the July 1, 2004 Order because she had problems having her mail delivered. Employee requested that the Initial Decision be vacated and that she be allowed to present her case to the OEA Board.⁴

OEA has several safeguards in place to ensure that all documents are mailed to parties. One way that OEA offers as proof that correspondence was mailed out is to attach a certificate of service to the document. The certificate of service for the July 1, 2004 Order listed 5907 62nd Avenue, Riverdale, MD 20737, as Employee's mailing address. This is the same address that Employee provided one month earlier on her Petition for Appeal. This is also the address listed on her Petition for Review. Additionally, OEA takes one other step to document the correspondence mailed from our

² *Order to Employee to Submit Final Agency Decision*, p. 1 (July 1, 2004). The Order also provided that failure to submit the required document could result in the dismissal of Employee's appeal.

³ *Initial Decision* (August 27, 2004).

⁴ *Employee's Petition for Review*, p. 1 (September 8, 2004).

office. The Office's Administrative Assistant keeps a log of all the mail sent out. The log contains a description of the document mailed, the date, and the party to whom the document was sent. According to the Office log, the July 1, 2004 Order was sent to Employee.

The USCS Fed Rules Civil Procedure Rule 5 and D.C. Superior Court Rules of Civil Procedure Rule 5(b)(2)(B) provide that service by mail is complete upon mailing a copy of the document to a party's last known address. OEA complied with both regulations. The Office cannot be held responsible for Employee's alleged postal problems.

OEA has consistently held that employees must adhere to OEA Rules 609.4.⁵ Employee failed to supply the AJ with a copy of the final Agency decision. Accordingly, we hereby deny her Petition for Review.

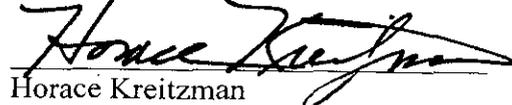
⁵ *Scott v. D.C. Public Schools*, OEA Matter No. 2401-0047-03 (March 15, 2004), ___ D.C. Reg. ___ ();
Miller v. D.C. Public Schools, OEA Matter No. 2401-0134-04 (August 27, 2004) ___ D.C. Reg. ___ ();
Mebane v. D.C. Public Schools, OEA Matter No. 2401-0206-04 (September 29, 2005) ___ D.C. Reg. ___ ();
and *Williams v. D.C. Department of Public Health*, OEA Matter No. 2401-0058-03 (October 26, 2005) ___
D.C. Reg. ___ ().

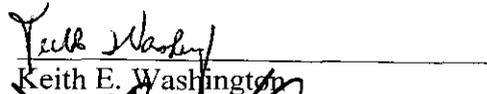
ORDER

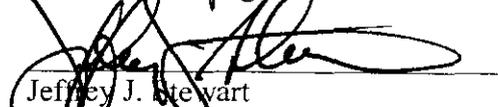
Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

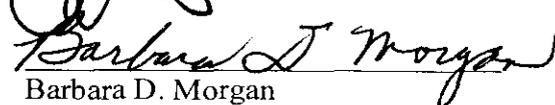
FOR THE BOARD:


Brian Lederer, Chair


Horace Kreitzman


Keith E. Washington


Jeffrey J. Stewart


Barbara D. Morgan

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 formal notice of the decision or order sought to be reviewed.